

(2) that requires a skill designated (under regulations prescribed by the Secretary of Defense for the armed forces, by the Secretary of Commerce for the National Oceanic and Atmospheric Administration, or by the Secretary of Health and Human Services for the Public Health Service) as critical and as a skill in which there is a critical shortage of officers in the uniformed service concerned.

(b) Under regulations prescribed by the Secretary concerned, an officer of a uniformed service who—

- (1) is entitled to basic pay;
- (2) is below the pay grade of O-7;
- (3) holds a degree in engineering or science from an accredited college or university;
- (4) has been certified by the Secretary concerned as having the technical qualifications for detail to engineering or scientific duty;
- (5) has completed at least three but less than nineteen years of engineering or scientific duty as an officer; and
- (6) executes a written agreement to remain on active duty for detail to engineering or scientific duty for at least one year, but not more than four years;

may, upon acceptance of the written agreement by the Secretary concerned, be paid, in addition to all other compensation to which the officer is entitled, an amount not to exceed \$3,000 multiplied by the number of years, or monthly fraction thereof, of obligated service to which the officer agrees under the agreement. The total amount payable may be paid in a lump sum or in equal periodic installments, as determined by the Secretary concerned.

(c) An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 97-60, title I, § 120(a), Oct. 14, 1981, 95 Stat. 998; amended Pub. L. 99-145, title VI, § 637(a), Nov. 8, 1985, 99 Stat. 648; Pub. L. 100-26, § 8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 109-163, div. A, title VI, § 687(b)(24), Jan. 6, 2006, 119 Stat. 3331.)

Editorial Notes

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-163 amended subsec. (c) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer receives bonus but fails to complete agreed upon period of active duty.

1991—Subsec. (c). Pub. L. 102-25 struck out “of this section” after “subsection (b)” in two places in par. (1) and struck out “of this subsection” after “paragraph (1)” in pars. (2) to (4) and after “paragraph (3)” in par. (2).

1987—Subsec. (a). Pub. L. 100-26 inserted “the term” after “In this section.”

1985—Subsec. (a). Pub. L. 99-145, § 637(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “In this section, the term ‘engineering

or scientific duty’ means service performed by an officer that requires an engineering or science degree and that requires a skill designated under regulations prescribed by the Secretary of Defense as critical and as a skill in which there is a critical shortage of officers in the armed force concerned.”

Subsec. (b). Pub. L. 99-145, § 637(a)(2), in provision preceding par. (1), substituted “prescribed by the Secretary concerned” for “prescribed by the Secretary of Defense” and “officer of a uniformed service” for “officer of an armed force”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title VI, § 637(b), Nov. 8, 1985, 99 Stat. 649, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of Title 10, Armed Forces.

§ 316. Special pay: bonus for members with foreign language proficiency

(a) AVAILABILITY OF BONUS.—Subject to subsection (c), the Secretary concerned may pay a bonus under this section to a member of the uniformed services who—

(1) is qualified in a uniformed services specialty requiring proficiency in a foreign language identified by the Secretary concerned as a foreign language in which it is necessary to have personnel proficient because of national defense or public health considerations;

(2) received training, under regulations prescribed by the Secretary concerned, designed to develop a proficiency in such a foreign language;

(3) is assigned to duties requiring a proficiency in such a foreign language; or

(4) is proficient in a foreign language for which the uniformed service may have a critical need, as determined by the Secretary concerned.

(b) BONUS AMOUNT; TIME FOR PAYMENT.—A bonus under subsection (a) may not exceed \$12,000 per one-year certification period under subsection (c). The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period. The bonus is in addition to any other pay or allowance payable to a member under any other provision of law.

(c) CERTIFICATION OF PROFICIENCY.—To be eligible to receive a bonus under this section, a member described in subsection (a) must be certified by the Secretary concerned as being proficient in the foreign language for which the bonus is offered. The certification of the member shall expire at the end of the one-year period beginning on the first day of the first month beginning on or after the certification date.

(d) CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.—(1) Notwithstanding sub-

section (c), the Secretary concerned may waive the certification requirement under such subsection and pay a bonus under this section to a member who—

(A) is assigned to duty in connection with a contingency operation;

(B) is unable to schedule or complete the certification required by subsection (c) because of that assignment; and

(C) except for the lack of such certification, satisfies the eligibility requirements under subsection (a).

(2) The Secretary concerned may treat the date on which the member was assigned to duty in connection with the contingency operation as equivalent to a certification date. In the case of a member whose certification will expire during such a duty assignment, the Secretary shall commence the next one-year certification period on the date on which the prior certification period expires.

(3) A member who is paid a bonus under the authority of this subsection shall complete the certification required by subsection (c) for the foreign language for which the bonus was paid not later than the end of the 180-day period beginning on the date on which the member is released from the assignment in connection with the contingency operation. The Secretary concerned may extend that period for a member in accordance with regulations prescribed under subsection (f).

(4) If a member fails to obtain the required certification under subsection (c) before the end of the period provided under paragraph (3), the Secretary concerned may require the member to repay all or a portion of the bonus in the manner provided in section 303a(e) of this title.

(e) REPAYMENT.—A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall be subject to the repayment provisions of section 303a(e) of this title.

(f) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration.

(Added Pub. L. 99-661, div. A, title VI, § 634(a)(1), Nov. 14, 1986, 100 Stat. 3884; amended Pub. L. 104-201, div. A, title VI, § 616(a), (b), Sept. 23, 1996, 110 Stat. 2547; Pub. L. 106-65, div. A, title VI, § 625(a), Oct. 5, 1999, 113 Stat. 654; Pub. L. 107-296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-375, div. A, title VI, § 620(a)(1), Oct. 28, 2004, 118 Stat. 1952; Pub. L. 109-163, div. A, title VI, §§ 639(a)–(e)(1), 687(b)(25), Jan. 6, 2006, 119 Stat. 3301, 3302, 3331.)

Editorial Notes

AMENDMENTS

2006—Pub. L. 109-163, § 639(e)(1), substituted “Special pay: bonus for members with foreign language proficiency” for “Special pay and bonus for members with foreign language proficiency” in section catchline.

Subsec. (a). Pub. L. 109-163, § 639(a), substituted “Bonus” for “Special Pay” in heading and, in introductory provisions, substituted “a bonus” for “monthly special pay” and struck out “is entitled to basic pay under section 204 of this title and who” after “uniformed services who”.

Subsec. (b). Pub. L. 109-163, § 639(b)(1), (3), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “Subject to subsection (c), the Secretary concerned may pay an annual bonus under this section to a member of a reserve component who satisfies the eligibility requirements specified in paragraph (1), (2), (3), or (4) of subsection (a).”

Subsec. (c). Pub. L. 109-163, § 639(d)(1), struck out “special pay or” before “a bonus under” and before “bonus is offered” and struck out “or (b)” before “must be certified”.

Subsec. (d). Pub. L. 109-163, § 639(b)(1), (2), redesignated subsec. (f) as (d) and struck out heading and text of former subsec. (d). Text read as follows:

“(1) The monthly rate for special pay paid under subsection (a) may not exceed \$1,000.

“(2) The maximum amount of the bonus paid to a member under subsection (b) may not exceed \$6,000 for the one-year period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period.”

Subsec. (d)(1). Pub. L. 109-163, § 639(d)(2)(A)(i), struck out “monthly special pay or” before “a bonus under” in introductory provisions.

Subsec. (d)(1)(C). Pub. L. 109-163, § 639(d)(2)(A)(ii), substituted “under subsection (a)” for “for receipt of special pay under subsection (a) or a bonus under subsection (b), whichever applies to the member”.

Subsec. (d)(2). Pub. L. 109-163, § 639(d)(2)(B), substituted “The Secretary concerned” for “For purposes of providing an annual bonus to a member under the authority of this subsection, the Secretary concerned”.

Subsec. (d)(3). Pub. L. 109-163, § 639(d)(2)(C), struck out “special pay or” before “a bonus under” and before “bonus was paid” and substituted “subsection (f)” for “subsection (h)”.

Subsec. (d)(4). Pub. L. 109-163, § 639(d)(2)(D), substituted “section 303a(e) of this title” for “subsection (g)”.

Subsec. (e). Pub. L. 109-163, § 687(b)(25), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

“(1) A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall repay to the United States the amount of the bonus so paid, except as otherwise prescribed under paragraph (2).

“(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

“(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the date on which the member received the bonus does not discharge the member from a debt arising under paragraph (1).”

Pub. L. 109-163, § 639(b)(1), (c), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows:

“(1) Except as provided in paragraph (2), special pay or a bonus paid under this section is in addition to any other pay or allowance payable to a member under any other provision of law.

“(2) If a member of a reserve component serving on active duty receives special pay under subsection (a) for any month occurring during a certification period in which the member received, or is receiving, a bonus under subsection (b), the amount of the special pay paid to the member for the month shall be reduced by an amount equal to $\frac{1}{2}$ of the bonus amount.”

Subsec. (f). Pub. L. 109-163, §639(b)(2), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsec. (g). Pub. L. 109-163, §639(b)(1), struck out heading and text of subsec. (g). Text read as follows:

“(1) The Secretary concerned may require a member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, to repay to the United States an amount which bears the same ratio to the total amount of the bonus paid to the member as the unsatisfied portion of the certification period bears to the entire certification period.

“(2) An obligation to repay the United States imposed under paragraph (1) or subsection (f)(4) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered for the member less than five years after the expiration of the certification period does not discharge the member from a debt arising under this paragraph. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.”

Subsec. (h). Pub. L. 109-163, §639(b)(2), redesignated subsec. (h) as (f).

2004—Pub. L. 108-375 amended section catchline and text generally, substituting provisions relating to special pay and bonus for members with foreign language proficiency for former provisions which related to: in subsec. (a) requirements for payment of special pay to member of uniformed services who is entitled to basic pay under section 204 of this title for foreign language proficiency; in subsec. (b) determination of monthly rate for special pay; in subsec. (c) increased compensation for member of reserve component who is entitled to compensation under section 206 of this title and who generally meets requirements in subsec. (a); and in subsec. (d) administration of section.

2002—Subsec. (d). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1999—Subsec. (b). Pub. L. 106-65 substituted “\$300” for “\$100”.

1996—Subsec. (a). Pub. L. 104-201, §616(a)(1), substituted “uniformed services” for “armed forces” in introductory provisions.

Subsec. (a)(2). Pub. L. 104-201, §616(a)(2), substituted “Secretary concerned as being” for “Secretary of Defense as being” and inserted “or public health” after “national defense”.

Subsec. (a)(3)(A). Pub. L. 104-201, §616(a)(3)(A), substituted “uniformed services” for “military”.

Subsec. (a)(3)(C). Pub. L. 104-201, §616(a)(3)(B), struck out “military” before “duties requiring”.

Subsec. (a)(3)(D). Pub. L. 104-201, §616(a)(3)(C), substituted “uniformed service” for “Department of Defense” and “Secretary concerned” for “Secretary of Defense”.

Subsec. (d). Pub. L. 104-201, §616(b), substituted “the jurisdiction of the Secretary,” for “his jurisdiction and” and inserted before period at end “, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title VI, §625(b), Oct. 5, 1999, 113 Stat. 654, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to foreign language proficiency pay paid under section 316 of such title for months beginning on or after that date.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title VI, §616(c), Sept. 23, 1996, 110 Stat. 2547, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1996, and apply with respect to months beginning on or after such date.”

EFFECTIVE DATE

Pub. L. 99-661, div. A, title VI, §634(b), Nov. 14, 1986, 100 Stat. 3885, provided that: “Section 316 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Nov. 14, 1986], and shall apply with respect to pay periods beginning on or after that date.”

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of Title 10, Armed Forces.

§316a. Special pay: incentive pay for members of precommissioning programs pursuing foreign language proficiency

(a) INCENTIVE PAY.—The Secretary of Defense may pay incentive pay under this section to an individual who—

(1) is enrolled as a member of the Senior Reserve Officers’ Training Corps or the Marine Corps Platoon Leaders Class, as determined in accordance with regulations prescribed by the Secretary of Defense under subsection (e); and

(2) participates in a language immersion program approved for purposes of the Senior Reserve Officers’ Training Corps, or in study abroad, or is enrolled in an academic course that involves instruction in a foreign language of strategic interest to the Department of Defense as designated by the Secretary of Defense for purposes of this section.

(b) PERIOD OF PAYMENT.—Incentive pay is payable under this section to an individual described in subsection (a) for the period of the individual’s participation in the language program or study described in paragraph (2) of that subsection.

(c) AMOUNT.—The amount of incentive pay payable to an individual under this section may not exceed \$3,000 per year.

(d) REPAYMENT.—An individual who is paid incentive pay under this section but who does not satisfactorily complete participation in the individual’s language program or study as described in subsection (a)(2), or who does not complete the requirements of the Senior Reserve Officers’ Training Corps or the Marine Corps Platoon Leaders Class, as applicable, shall