

§ 312. Special pay: nuclear-qualified officers extending period of active service

(a) Under regulations to be prescribed by the Secretary of the Navy, an officer of the naval service who—

(1) is entitled to basic pay;

(2) has the current technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants; and

(3) executes a written agreement to remain on active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants for a period of three, four, or five years, so long as the new period of obligated active service does not extend beyond the end of 26 years of commissioned service, in addition to any other period of obligated active service,

may, upon the acceptance by the Secretary or his designee of the written agreement, in addition to all other compensation to which he is entitled, be paid a sum of money not to exceed \$25,000 for each year of the active-service agreement. The Secretary of the Navy shall determine annually the necessity for continuance of the special pay and the rate of special pay per year for such active-service agreements accepted within each 12-month period. Upon acceptance of the agreement by the Secretary or his designee, the total amount payable shall be paid in equal annual installments over the length of the contract, commencing at the expiration of any existing period of obligated active service. The Secretary (or his designee) may accept an active service agreement under this section not more than one year in advance of the end of an officer's existing period of obligated active service under such an agreement. In such a case, the amount of the special pay may be paid commencing with the date of acceptance of the agreement, with the number of installments being equal to the number of years covered by the contract plus one.

(b) Pursuant to regulations prescribed by the Secretary of the Navy and subject to such exceptions as may be prescribed in those regulations, refunds, on a pro rata basis, of sums paid pursuant to this section may be required if the officer having received the payment fails to complete the full period of active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants which he agreed to serve.

(c) Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the additional period of active service under this section shall in no way obligate the President to accept a resignation submitted by a regular officer.

(d)(1) An officer who is performing obligated service under an agreement under subsection (a) may, if the amount that may be paid under such subsection is higher than at the time the officer executed such agreement, execute a new agreement under that subsection. The period of such an agreement shall be a period equal to or exceeding the original period of the officer's exist-

ing agreement, so long as the period of obligated active service under the new agreement does not extend beyond the end of 26 years of commissioned service. If a new agreement is executed under this subsection, the existing active-service agreement shall be cancelled, effective on the day before an anniversary date of that agreement after the date on which the amount that may be paid under this section is increased.

(2) This subsection shall be carried out under regulations prescribed by the Secretary of the Navy.

(e) The provisions of this section shall be effective only in the case of officers who, on or before December 31, 2003, execute the required written agreement to remain in active service.

(Added Pub. L. 91-20, §1(1), June 3, 1969, 83 Stat. 12; amended Pub. L. 92-581, §1(1), (2), Oct. 27, 1972, 86 Stat. 1277; Pub. L. 94-356, §2, July 12, 1976, 90 Stat. 901; Pub. L. 96-513, title V, §516(8), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96-579, §2(a), Dec. 23, 1980, 94 Stat. 3359; Pub. L. 99-145, title VI, §632(a), Nov. 8, 1985, 99 Stat. 643; Pub. L. 101-189, div. A, title VI, §614(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-337, div. A, title VI, §613(g), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104-106, div. A, title VI, §613(e), Feb. 10, 1996, 110 Stat. 360; Pub. L. 104-201, div. A, title VI, §613(d), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105-85, div. A, title VI, §§613(d), 624(a), Nov. 18, 1997, 111 Stat. 1786, 1793; Pub. L. 105-261, div. A, title VI, §613(d), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106-65, div. A, title VI, §§613(e), 624(a), Oct. 5, 1999, 113 Stat. 650, 654; Pub. L. 106-398, §1 [[div. A], title VI, §623(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-152; Pub. L. 107-107, div. A, title VI, §613(a), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107-314, div. A, title VI, §613(a), Dec. 2, 2002, 116 Stat. 2568.)

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-314 substituted “December 31, 2003” for “December 31, 2002”.

2001—Subsec. (e). Pub. L. 107-107 substituted “December 31, 2002” for “December 31, 2001”.

2000—Subsec. (e). Pub. L. 106-398 substituted “December 31, 2001” for “December 31, 2000”.

1999—Subsec. (a). Pub. L. 106-65, §624(a), substituted “\$25,000” for “\$15,000” in concluding provisions.

Subsec. (e). Pub. L. 106-65, §613(e), substituted “December 31, 2000” for “December 31, 1999”.

1998—Subsec. (e). Pub. L. 105-261 substituted “December 31, 1999” for “September 30, 1999”.

1997—Subsec. (a). Pub. L. 105-85, §624(a), substituted “\$15,000” for “\$12,000” in concluding provisions.

Subsec. (e). Pub. L. 105-85, §613(d), substituted “September 30, 1999” for “September 30, 1998”.

1996—Subsec. (e). Pub. L. 104-201 substituted “September 30, 1998” for “September 30, 1997”.

Pub. L. 104-106 substituted “September 30, 1997” for “September 30, 1996”.

1994—Subsec. (e). Pub. L. 103-337 substituted “September 30, 1996” for “September 30, 1995”.

1991—Subsec. (d)(1). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1989—Subsec. (e). Pub. L. 101-189 substituted “September 30, 1995” for “September 30, 1990”.

1985—Subsec. (a). Pub. L. 99-145, §632(a)(1)(D), in provisions following numbered clauses, substituted “\$12,000” for “\$7,000”, “annually” for “semiannually”, “12-month period” for “six-month period”, and “shall be paid in equal annual installments over the length of

the contract, commencing at the expiration of any existing period of obligated active service. The Secretary (or his designee) may accept an active service agreement under this section not more than one year in advance of the end of an officer's existing period of obligated active service under such an agreement. In such a case, the amount of the special pay may be paid commencing with the date of acceptance of the agreement, with the number of installments being equal to the number of years covered by the contract plus one" for "shall become fixed and shall be paid in four equal yearly installments, commencing at the expiration of the initial obligated service; except, the Secretary or his designee may accept the active-service agreement not more than one year in advance of the expiration of the initial obligated active service and the amount may then be paid in five yearly installments, not to exceed \$5,600 per year, commencing with the date of acceptance of the agreement".

Subsec. (a)(2) to (4). Pub. L. 99-145, § 632(a)(1)(A)-(C), inserted "and" at end of cl. (2), redesignated cl. (4) as (3) and substituted "for a period of three, four, or five years, so long as the new period of obligated active service does not extend beyond the end of 26 years of commissioned service," for "for one period of four years", and struck out former cl. (3) which related to an officer of the naval service who had not completed ten years of commissioned service.

Subsec. (b). Pub. L. 99-145, § 632(a)(2), (3), redesignated subsec. (c) as (b), struck out "of four years" after "complete the full period", and struck out former subsec. (b) which provided that no more than one agreement for each officer would be accepted under this section.

Subsec. (c). Pub. L. 99-145, § 632(a)(4), redesignated subsec. (d) as (c), and substituted "additional period of active service under this section shall in no way obligate the President to accept a resignation submitted by a regular officer." for "additional period of four years' active service under this section shall in no way obligate the President to accept a resignation submitted by a regular officer at the end of the four-year period." Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 99-145, § 632(a)(5), added subsec. (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 99-145, § 632(a)(6), substituted "September 30, 1990" for "September 30, 1987".

1980—Subsec. (a). Pub. L. 96-579, § 2(a)(1), substituted "\$7,000" and "\$5,600" for "\$5,000" and "\$4,000", respectively.

Pub. L. 96-513 redesignated cls. (3) to (5) as (2) to (4), respectively. Former cl. (2) was repealed by Pub. L. 92-581, § 1(2)(A), Oct. 27, 1972, 86 Stat. 1277.

Subsec. (e). Pub. L. 96-579, § 2(a)(2), substituted "September 30, 1987" for "September 30, 1981".

1976—Subsec. (a). Pub. L. 94-356, § 2(1), substituted "\$5,000" for "\$3,750" and "\$4,000" for "\$3,000".

Subsec. (e). Pub. L. 94-356, § 2(2), substituted "September 30, 1981" for "June 30, 1975".

1972—Pub. L. 92-581, § 1(1), struck out "submarine" in section catchline.

Subsec. (a)(2). Pub. L. 92-581, § 1(2)(A), struck out cl. (2) which referred to officers of the naval service currently designated "qualified in submarines".

Subsec. (a)(5). Pub. L. 92-581, § 1(2)(B), substituted "on active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants", for "in active submarine service".

Subsec. (c). Pub. L. 92-581, § 1(2)(C), substituted "duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants", for "submarine service".

Subsec. (d). Pub. L. 92-581, § 1(2)(D), struck out "submarine".

Subsec. (e). Pub. L. 92-581, § 1(2)(E), substituted "1975" for "1973".

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title VI, § 624(d)(1), Oct. 5, 1999, 113 Stat. 654, provided that: "The amendments made by

subsections (a) and (b) [amending this section and section 312b of this title] shall take effect on October 1, 1999, and shall apply to agreements under section 312 or 312b of such title entered into on or after that date."

EFFECTIVE DATE OF 1997 AMENDMENT

Section 624(d) of Pub. L. 105-85 provided that:

"(1) The amendments made by this section [amending this section and sections 312b and 312c of this title] shall take effect as of October 1, 1997.

"(2) The amendments made by subsections (a) and (b) [amending this section and section 312b of this title] shall apply with respect to agreements accepted under sections 312(a) and 312b(a), respectively, of title 37, United States Code, on or after October 1, 1997."

EFFECTIVE DATE OF 1985 AMENDMENT

Section 632(d) of Pub. L. 99-145 provided that: "The amendments made by this section [amending this section and sections 312b and 312c of this title] shall take effect on October 1, 1985."

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 2(d)(1) of Pub. L. 96-579 provided: "The amendments made by subsection (a)(1) [amending this section] shall apply only with respect to active-duty agreements under section 312 of title 37, United States Code, executed on or after the first day of the first month following the month in which this section is enacted [Dec. 1980]."

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 5 of Pub. L. 94-356 provided that: "This Act [enacting section 312b of this title, amending this section, and enacting provisions set out as notes under this section and section 301 of this title] becomes effective on the first day of the first month after enactment [Aug. 1, 1976], except that section 312c of title 37, United States Code, as added by this Act, is effective as of October 1, 1975."

ACTIVE SERVICE AGREEMENTS FOR NUCLEAR QUALIFIED OFFICERS

Pub. L. 97-60, title I, § 118, Oct. 14, 1981, 95 Stat. 997, provided that: "Notwithstanding subsections (a) and (b) of section 312 of title 37, United States Code, and under regulations prescribed by the Secretary of the Navy, the Secretary of the Navy may permit an officer of the naval service who is performing obligated service as the result of an active-service agreement executed under such section before January 1, 1981, to cancel that active-service agreement effective on the day before an anniversary of the day on which that agreement was executed and execute a new active-service agreement under such section for one period of four years. Any such cancellation of an existing agreement and execution of a new agreement may be effective on the day before an anniversary date occurring on or after January 1, 1981."

EXCHANGE OF ACTIVE SERVICE AGREEMENTS BY NAVAL OFFICERS

Section 4 of Pub. L. 94-356 provided that: "Notwithstanding any other provision of this Act [enacting section 312b and 312c of this title, amending this section, and enacting provisions set out as notes under this section and section 301 of this title] or any other provision of law, and under regulations prescribed by the Secretary of the Navy, an officer of the naval service who, on or after the effective date of this Act [see Effective Date of 1976 Amendment above], is, or will be, performing obligated service as the result of an active service agreement executed in accordance with section 312 of title 37, United States Code as it existed at any

time before the effective date of this Act, may be permitted—

“(1) as of the last day of the first year of that obligated service, to cancel that active service agreement in exchange for a new active service agreement in accordance with section 312 of title 37, as amended by this Act; or

“(2) as of the last day of any year, other than the last year, of that obligated service, to cancel that active service agreement in exchange for eligibility for the annual bonus authorized by section 312c of title 37, as added by this Act, and an agreement to remain on active duty for a period of time equal to the period of obligated service remaining under that active service agreement”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 312c of this title.

§ 312a. Special pay: nuclear-trained and qualified enlisted members

(a) Under regulations prescribed by the Secretary of Defense, an enlisted member of the naval service who—

(1) is entitled to basic pay;

(2) is currently qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

(3) has completed at least six, but not more than ten, years of active duty and executes, when eligible, a reenlistment agreement for not less than two years;

may upon acceptance of the reenlistment agreement by the Secretary of the Navy or his designee, be paid a bonus not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years or the monthly fractions thereof of additional obligated service, not to exceed six years, or \$15,000, whichever is the lesser amount.

(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments.

(c) An amount paid to a member under subsection (a) is in addition to all other compensation to which he is entitled and does not count against the limitation prescribed by section 308(a) of this title concerning the total amount of reenlistment bonus that may be paid.

(d) Under regulations prescribed by the Secretary of the Navy, refunds, on a pro rata basis, of sums paid under subsection (a) may be required, and further payments terminated, if the member who has received the payment fails to complete his reenlistment contract or fails to maintain his technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants.

(e) Provisions of this section shall be effective only in the cases of members who, on or before June 30, 1975, execute the required written agreement to remain in active service.

(Added Pub. L. 92-581, §1(3), Oct. 27, 1972, 86 Stat. 1277; amended Pub. L. 97-295, §3(3), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

1982 ACT

This amends 37:312a(c) to reflect the amendment made to 37:308 by section 2 of the Armed Forces Enlisted Personnel Bonus Revision Act of 1974 (Pub. L. 93-277, May 10, 1974, 88 Stat. 119).

AMENDMENTS

1991—Subsecs. (c), (d). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1982—Subsec. (c). Pub. L. 97-295 substituted “section 308(a)” for “section 308(c)” and struck out provision that a member receiving payment under this section is not entitled to any further payments under section 308(g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 308 of this title.

§ 312b. Special pay: nuclear career accession bonus

(a)(1) Under regulations prescribed by the Secretary of the Navy, an individual who is selected for officer naval nuclear power training and who executes a written agreement to participate in a program of training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants may be paid a bonus not to exceed \$20,000 upon acceptance by the Secretary of the written agreement. Upon acceptance of the agreement by the Secretary, the amounts payable upon selection for training and upon completion of training, respectively, as determined under subsection (b), shall become fixed.

(2) Under such regulations, and subject to such exceptions, as the Secretary of the Navy may prescribe, an individual who has entered into an agreement with the Secretary under this subsection, who has been paid a bonus under this subsection, and who fails to commence or satisfactorily complete the nuclear power training specified in the agreement shall be required to refund such bonus.

(b) The Secretary of the Navy shall determine annually the total amount of the bonus to be paid under this section and of that amount the portions that are to be paid—

(1) upon selection for officer naval nuclear power training; and

(2) upon successful completion, as a commissioned officer, of training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

(c) The provisions of this section shall be effective only in the case of officers who, on or before December 31, 2003, have been accepted for training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

(Added Pub. L. 94-356, §3, July 12, 1976, 90 Stat. 901; amended Pub. L. 96-579, §2(b), Dec. 23, 1980, 94 Stat. 3359; Pub. L. 97-60, title I, §119, Oct. 14, 1981, 95 Stat. 997; Pub. L. 99-145, title VI, §632(b), title XIII, §1303(b)(4), Nov. 8, 1985, 99 Stat. 644, 740; Pub. L. 101-189, div. A, title VI, §614(b), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 101-510, div. A, title XIII, §1322(c)(7), Nov. 5, 1990, 104 Stat. 1672;