

the agreement providing for an extension of the tour of duty of an enlisted member described in subsection (a), the member is entitled, at the election of the Secretary concerned, to either—

(1) special pay in monthly installments in an amount prescribed by the Secretary, but not to exceed \$80 per month; or

(2) an annual bonus in an amount prescribed by the Secretary, but not to exceed \$2,000 per year.

(c) **SELECTION AND PAYMENT OF SPECIAL PAY OR BONUS.**—Not later than the date on which the Secretary concerned accepts an agreement described in subsection (a)(4) providing for the extension of a member's tour of duty, the Secretary concerned shall notify the member regarding whether the member will receive special pay or a bonus under this section. The payment rate for the special pay or bonus shall be fixed at the time of the agreement and may not be changed during the period of the extended tour of duty. The Secretary concerned may pay a bonus under this section either in a lump sum or installments.

(d) **REPAYMENT OF BONUS.**—(1) A member who, having entered into a written agreement to extend a tour of duty for a period under subsection (a), receives a bonus payment under subsection (b)(2) for a 12-month period covered by the agreement and ceases during that 12-month period to perform the agreed tour of duty shall refund to the United States the unearned portion of the bonus. The unearned portion of the bonus is the amount by which the amount of the bonus paid to the member exceeds the amount determined by multiplying the amount of the bonus paid by the percent determined by dividing 12 into the number of full months during which the member performed the duty in the 12-month period.

(2) The Secretary concerned may waive the obligation of a member to reimburse the United States under paragraph (1) if the Secretary determines that conditions and circumstances warrant the waiver.

(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under the agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998.

(e) **EFFECT OF REST AND RECUPERATIVE ABSENCE.**—A member who elects to receive one of the benefits specified in section 705(b) of title 10 as part of the extension of a tour of duty is not entitled to the special pay authorized by subsection (b)(1) for the period of the extension of duty for which the benefit under such section is provided.

(Added Pub. L. 96-579, §5(a)(1), Dec. 23, 1980, 94 Stat. 3366; amended Pub. L. 99-145, title VI, §641(a), Nov. 8, 1985, 99 Stat. 652; Pub. L. 105-85, div. A, title VI, §625(a)(1), Nov. 18, 1997, 111 Stat.

1794; Pub. L. 107-314, div. A, title VI, §654(b)(1), Dec. 2, 2002, 116 Stat. 2582.)

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 105-85, which was approved Nov. 18, 1997.

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107-314 substituted “the continental United States” for “the 48 contiguous States and the District of Columbia”.

1997—Pub. L. 105-85 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to special pay for qualified enlisted members extending duty at designated locations overseas.

1985—Subsec. (a). Pub. L. 99-145 substituted “\$80” for “\$50” in provision following par. (4).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 625(b) of Pub. L. 105-85 provided that: “Section 314 of title 37, United States Code, as amended by subsection (a), shall apply with respect to an agreement to extend a tour of duty as provided in such section executed on or after October 1, 1997.”

EFFECTIVE DATE OF 1985 AMENDMENT

Section 641(b) of Pub. L. 99-145 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

EFFECTIVE DATE

Section 5(c)(1) of Pub. L. 96-579 provided: “Section 314 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month following the month in which this section is enacted [Dec. 1980] and shall apply to periods of extended duty overseas beginning before, on, or after such date, but no payment may be made under such section for any month before the first day of the first month following the month in which this section is enacted.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411g of this title; title 10 section 705.

§ 315. Special pay: engineering and scientific career continuation pay

(a) In this section, the term “engineering or scientific duty” means service performed by an officer—

(1) that requires an engineering or science degree; and

(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 a¹ 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;

¹ So in original. Probably should be “an”.

(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)(1) An officer who does not serve on active duty for the entire period for which he has been paid under subsection (b) shall refund that percentage of the payment that the unserved part of the period is of the total period for which the payment was made. Nothing in this subsection shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion by a regular officer of the total period of obligated service specified in an agreement under subsection (b) does not obligate the President to accept a resignation submitted by that officer.

(2) Subject to paragraph (3), and obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after September 30, 1981.

(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.)

AMENDMENTS

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 offi-

cer 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”.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 637(b) of Pub. L. 99-145 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

§ 316. Special pay: foreign language proficiency pay

(a) A member of the uniformed services—

(1) who is entitled to basic pay under section 204 of this title;

(2) who has been certified by the Secretary concerned within the past 12 months to be proficient in a foreign language identified by the Secretary concerned as being a language in which it is necessary to have personnel proficient because of national defense or public health considerations; and

(3) who—

(A) is qualified in a uniformed services specialty requiring such proficiency;

(B) received training, under regulations prescribed by the Secretary concerned, designed to develop such proficiency;

(C) is assigned to duties requiring such a proficiency; or

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

may be paid special pay under this section in addition to any other pay or allowance to which the member is entitled.

(b) The monthly rate for special pay under subsection (a) shall be determined by the Secretary concerned and may not exceed \$300.

(c)(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title.

(2) A member eligible for increased compensation under paragraph (1) shall be paid such increase—

(A) for each regular period of instruction, or period of appropriate duty, in which he is engaged for at least two hours, including instruction received or duty performed on a Sunday or holiday; and

(B) for each period of performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary concerned may prescribe.

(3) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.