

(E) Five installments of \$6,000 each.

(3) If a member elects installment payments under paragraph (2), the second installment (and subsequent installments, as applicable) shall be paid on the earlier of the following dates:

(A) The annual anniversary date of the payment of the first installment.

(B) January 15 of each succeeding calendar year.

(4) The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments, shall be paid to an eligible career bonus member not later than the first month that begins on or after the date that is 60 days after the date on which the Secretary concerned receives from the member the election required under subsection (a)(1) and the written agreement required under subsection (a)(2), if applicable.

(e) NOTIFICATION OF ELIGIBILITY.—(1) The Secretary concerned shall transmit to each member who meets the definition of eligible career bonus member a written notification of the opportunity of the member to elect to receive a bonus under this section. The Secretary shall provide the notification not later than 180 days before the date on which the member will complete 15 years of active duty.

(2) The notification shall include the following:

(A) The procedures for electing to receive the bonus.

(B) An explanation of the effects under sections 1401a, 1409, and 1410 of title 10 that such an election has on the computation of any retired or retainer pay that the member may become eligible to receive.

(f) REPAYMENT OF BONUS.—(1) If a person paid a bonus under this section fails to complete a period of active duty beginning on the date on which the election of the person under subsection (a)(1) is received and ending on the date on which the person completes 20 years of active-duty service as described in subsection (a)(2), the person shall refund to the United States the amount that bears the same ratio to the amount of the bonus payment as the uncompleted part of that period of active-duty service bears to the total period of such service.

(2) Subject to paragraph (3), an 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 the agreement or this subsection.

(Added Pub. L. 106-65, div. A, title VI, §642(a), Oct. 5, 1999, 113 Stat. 662; amended Pub. L.

107-107, div. A, title VI, §620(a), Dec. 28, 2001, 115 Stat. 1138.)

AMENDMENTS

2001—Subsec. (d)(1). Pub. L. 107-107, §620(a)(1), substituted “equal to \$30,000” for “paid in a single lump sum of \$30,000”.

Subsec. (d)(2) to (4). Pub. L. 107-107, §620(a)(2), (3), added pars. (2) and (3), redesignated former par. (2) as (4), and substituted therein “The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments,” for “The bonus”.

EFFECTIVE DATE

Section effective Oct. 1, 1999, see section 644 of Pub. L. 106-65, set out as an Effective Date of 1999 Amendment note under section 1401a of Title 10, Armed Forces.

APPLICATION TO EXISTING AGREEMENTS

Pub. L. 107-107, div. A, title VI, §620(b), Dec. 28, 2001, 115 Stat. 1139, provided that: “The Secretary concerned (as defined in section 101(5) of title 37, United States Code) shall extend to each member of the uniformed services who has executed the written agreement required by subsection (a)(2) of section 322 of such title before the date of the enactment of this Act [Dec. 28, 2001], but who has not received the lump sum payment by that date, an opportunity to make the election authorized by subsection (d) of such section, as amended by this section.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 1401a, 1409, 1410.

§ 323. Special pay: retention incentives for members qualified in a critical military skill

(a) RETENTION BONUS AUTHORIZED.—An officer or enlisted member of the armed forces who is serving on active duty and is qualified in a designated critical military skill may be paid a retention bonus as provided in this section if—

(1) in the case of an officer, the member executes a written agreement to remain on active duty for at least 1 year; or

(2) in the case of an enlisted member, the member reenlists or voluntarily extends the member's enlistment for a period of at least 1 year.

(b) DESIGNATION OF CRITICAL SKILLS.—(1) A designated critical military skill referred to in subsection (a) is a military skill designated as critical by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall notify Congress, in advance, of each military skill to be designated by the Secretary as critical for purposes of this section. The notice shall be submitted at least 90 days before any bonus with regard to that critical skill is offered under subsection (a) and shall include a discussion of the necessity for the bonus, the amount and method of payment of the bonus, and the retention results that the bonus is expected to achieve.

(c) PAYMENT METHODS.—A bonus under this section may be paid in a single lump sum or in periodic installments.

(d) **MAXIMUM BONUS AMOUNT.**—(1) A member may enter into an agreement under this section, or reenlist or voluntarily extend the member's enlistment, more than once to receive a bonus under this section. However, a member may not receive a total of more than \$200,000 in payments under this section.

(2) The limitation in paragraph (1) on the total bonus payments that a member may receive under this section does not apply with respect to an officer who is assigned duties as a health care professional.

(e) **CERTAIN MEMBERS INELIGIBLE.**—(1) A retention bonus may not be provided under subsection (a) to a member of the armed forces who—

(A) has completed more than 25 years of active duty; or

(B) will complete the member's twenty-fifth year of active duty before the end of the period of active duty for which the bonus is being offered.

(2) The limitations in paragraph (1) do not apply with respect to an officer who is assigned duties as a health care professional during the period of active duty for which the bonus is being offered.

(f) **RELATIONSHIP TO OTHER INCENTIVES.**—A retention bonus paid under this section is in addition to any other pay and allowances to which a member is entitled.

(g) **REPAYMENT OF BONUS.**—(1) If an officer who has entered into a written agreement under subsection (a) fails to complete the total period of active duty specified in the agreement, or an enlisted member who voluntarily or because of misconduct does not complete the term of enlistment for which a bonus was paid under this section, the Secretary of Defense, and the Secretary of Homeland Security with respect to members of the Coast Guard when it is not operating as a service in the Navy, may require the member to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

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

(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a) does not discharge the member from a debt arising under paragraph (2).

(h) **ANNUAL REPORT.**—Not later than February 15 of each year, the Secretary of Defense and the Secretary of Transportation shall submit to Congress a report—

(1) analyzing the effect, during the preceding fiscal year, of the provision of bonuses under this section on the retention of members qualified in the critical military skills for which the bonuses were offered; and

(2) describing the intentions of the Secretary regarding the continued use of the bonus authority during the current and next fiscal years.

(i) **TERMINATION OF BONUS AUTHORITY.**—No bonus may be paid under this section with re-

spect to any reenlistment, or voluntary extension of an enlistment, in the armed forces entered into after December 31, 2003, and no agreement under this section may be entered into after that date.

(Added Pub. L. 106-398, §1 [[div. A], title VI, §633(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-157; amended Pub. L. 107-107, div. A, title VI, §614(d), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107-296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107-314, div. A, title VI, §§614(d), 618, Dec. 2, 2002, 116 Stat. 2568, 2570.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” in pars. (1) and (2).

Subsec. (d). Pub. L. 107-314, §618(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 107-314, §618(b), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (g)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (i). Pub. L. 107-314, §614(d), substituted “December 31, 2003” for “December 31, 2002”.

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

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

Pub. L. 106-398, §1 [[div. A], title VI, §633(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-158, provided that: “Section 323 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2000.”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 324. Special pay: accession bonus for new officers in critical skills

(a) **ACCESSION BONUS AUTHORIZED.**—Under regulations prescribed by the Secretary concerned, a person who executes a written agreement to accept a commission as an officer of the armed forces and serve on active duty in a designated critical officer skill for the period specified in the agreement may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(b) **DESIGNATION OF CRITICAL OFFICER SKILLS.**—The Secretary concerned shall designate the critical officer skills for the purposes of this section. A skill may be designated as a critical officer skill for an armed force under this subsection if—

(1) in order to meet requirements of the armed force, it is critical for the armed force