

## 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.

## SUBCHAPTER III—GENERAL PROVISIONS

**§ 371. Relationship to other incentives and pays**

(a) TREATMENT.—A bonus or incentive pay paid to a member of the uniformed services under subchapter II is in addition to any other pay and allowance to which a member is entitled, unless otherwise provided under this chapter.

(b) EXCEPTION.—A member may not receive a bonus or incentive pay under both subchapter I and subchapter II for the same activity, skill, or period of service.

(c) RELATIONSHIP TO OTHER COMPUTATIONS.—The amount of a bonus or incentive pay to which a member is entitled under subchapter II may not be included in computing the amount of—

- (1) any increase in pay authorized by any other provision of this title; or
- (2) any retired pay, retainer pay, separation pay, or disability severance pay.

(Added Pub. L. 110-181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 176.)

**§ 372. Continuation of pays during hospitalization and rehabilitation resulting from wounds, injury, or illness incurred while on duty in a hostile fire area or exposed to an event of hostile fire or other hostile action**

(a) CONTINUATION OF PAYS.—If a member of a regular or reserve component of a uniformed service incurs a wound, injury, or illness in the line of duty while serving in a combat operation or a combat zone, while serving in a hostile fire area, or while exposed to a hostile fire event, as described under section 351 of this title, and is hospitalized for treatment of the wound, injury, or illness, the Secretary concerned may continue to pay to the member, notwithstanding any provision of this chapter to the contrary, all pay and allowances (including any bonus, incentive pay, or similar benefit) that were being paid to the member at the time the member incurred the wound, injury, or illness.

(b) DURATION.—The payment of pay and allowances to a member under subsection (a) may continue until the end of the first month beginning after the earliest of the following dates:

- (1) The date on which the member is returned for assignment to other than a medical or patient unit for duty.
- (2) One year after the date on which the member is first hospitalized for the treatment of the wound, injury, or illness, except that the Secretary concerned may extend the termination date in six-month increments.
- (3) The date on which the member is discharged, separated, or retired (including temporary disability retirement) from the uniformed services.

(c) BONUS, INCENTIVE PAY, OR SIMILAR BENEFIT DEFINED.—In this section, the term “bonus, incentive pay, or similar benefit” means a bonus, incentive pay, special pay, or similar payment paid to a member of the uniformed services under this title or title 10.

(Added Pub. L. 110-181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 176.)

**§ 373. Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met**

(a) REPAYMENT AND TERMINATION.—Except as provided in subsection (b), a member of the uniformed services who is paid a bonus, incentive pay, or similar benefit, the receipt of which is contingent upon the member’s satisfaction of certain service or eligibility requirements, shall repay to the United States any unearned portion of the bonus, incentive pay, or similar benefit if the member fails to satisfy any such service or eligibility requirement, and the member may not receive any unpaid amounts of the bonus, incentive pay, or similar benefit after the member fails to satisfy such service or eligibility requirement.

(b) EXCEPTIONS.—

(1) DISCRETION TO PROVIDE EXCEPTION TO TERMINATION AND REPAYMENT REQUIREMENTS.—Pursuant to the regulations prescribed to administer this section, the Secretary concerned may grant an exception to the repayment requirement and requirement to terminate the payment of unpaid amounts of a bonus, incentive pay, or similar benefit if the Secretary concerned determines that the imposition of the repayment and termination requirements with regard to a member of the uniformed services would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

(2) SPECIAL RULE FOR DECEASED AND DISABLED MEMBERS.—(A) If a member of the uniformed services dies or is retired or separated with a combat-related disability, the Secretary concerned—

- (i) shall not require repayment by the member or the member’s estate of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the member; and
- (ii) shall require the payment to the member or the member’s estate of the remainder of any bonus, incentive pay, or similar benefit that was not yet paid to the member, but to which the member was entitled immediately before the death, retirement, or separation of the member, and would be paid if not for the death, retirement, or separation of the member.

(B) Subparagraph (A) does not apply if the death or disability of the member is the result of the member’s misconduct.

(C) The amount to be paid under subparagraph (A)(ii) shall be equal to the full amount specified by the agreement or contract appli-

cable to the bonus, incentive pay, or similar benefit as if the member continued to be entitled to the bonus, incentive pay, or similar benefit following the death, retirement, or separation.

(D) Amounts to be paid to a member or the member's estate under subparagraph (A)(ii) shall be paid in a lump sum not later than 90 days after the date of the death, retirement, or separation of the member, whichever applies.

(E) In this paragraph, the term "combat-related disability" has the meaning given that term in section 1413a(e) of title 10.

(3) SPECIAL RULE FOR MEMBERS WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.—(A) If a member of the uniformed services receives a sole survivorship discharge, the Secretary concerned—

(i) shall not require repayment by the member of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the member; and

(ii) may grant an exception to the requirement to terminate the payment of any unpaid amounts of a bonus, incentive pay, or similar benefit if the Secretary concerned determines that termination of the payment of the unpaid amounts would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

(B) In this paragraph, the term "sole survivorship discharge" means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

(i) the father or mother or one or more siblings—

(I) served in the Armed Forces; and  
(II) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

(ii) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.

(c) EFFECT OF BANKRUPTCY.—An obligation to repay the United States under this section is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after—

(1) the date of the termination of the agreement or contract on which the debt is based; or

(2) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

(d) DEFINITIONS.—In this section:

(1) The term "bonus, incentive pay, or similar benefit" means a bonus, incentive pay, special pay, or similar payment, or an educational benefit or stipend, paid to a member of the uniformed services under a provision of law that refers to the repayment requirements of this section or section 303a(e) of this title.

(2) The term "service", as used in subsection (c)(2), refers to an obligation willingly undertaken by a member of the uniformed services, in exchange for a bonus, incentive pay, or similar benefit offered by the Secretary concerned—

(A) to a member in a regular or reserve component who remains on active duty or in an active status;

(B) to perform duty in a specified skill, with or without a specified qualification or credential;

(C) to perform duty in a specified assignment, location or unit; or

(D) to perform duty for a specified period of time.

(Added Pub. L. 110-181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 177; amended Pub. L. 110-417, [div. A], title VI, § 651(c)(1), (2)(A), Oct. 14, 2008, 122 Stat. 4496, 4497; Pub. L. 111-84, div. A, title VI, § 617(b), Oct. 28, 2009, 123 Stat. 2355.)

#### AMENDMENTS

2009—Subsec. (b)(2). Pub. L. 111-84, § 617(b)(1), substituted "Special rule for deceased and disabled members" for "Mandatory payment of unpaid amounts under certain circumstances; no repayment of unearned amounts" in heading.

Subsec. (b)(3). Pub. L. 111-84, § 617(b)(2), added par. (3).

2008—Pub. L. 110-417, § 651(c)(2)(A), substituted "Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met" for "Repayment of unearned portion of bonus, incentive pay, or similar benefit when conditions of payment not met" in section catchline.

Subsec. (a). Pub. L. 110-417, § 651(c)(1)(A), inserted "and Termination" after "Repayment" in heading and "and the member may not receive any unpaid amounts of the bonus, incentive pay, or similar benefit after the member fails to satisfy such service or eligibility requirement" in text before period at end.

Subsec. (b). Pub. L. 110-417, § 651(c)(1)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "The regulations prescribed to administer this section may specify procedures for determining the circumstances under which an exception to the required repayment may be granted."

#### § 374. Regulations

This subchapter and subchapter II shall be administered under regulations prescribed by—

(1) the Secretary of Defense, with respect to the armed forces under the jurisdiction of the Secretary of Defense;

(2) the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy;

(3) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

(4) the Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.