

agency receives 1 or more payments under section 8003(b)(2)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)(E)) for fiscal year 2016, the sum of which is greater than the amount the Secretary of Education determines the local educational agency is entitled to receive under such section in accordance with subparagraph (A)—

“(i) the Secretary shall allow the local educational agency to retain the larger amount; and

“(ii) such local educational agency shall not be eligible to receive any additional payment under such section for fiscal year 2016.”

#### TRANSITION PROVISIONS

Pub. L. 107–110, title VIII, § 802(a)(2), Jan. 8, 2002, 115 Stat. 1949, provided that: “The Secretary shall consider an application for a payment under section 8003(b)(2) [20 U.S.C. 7703(b)(2)] for fiscal year 2002 from a qualified local educational agency described in section 8003(b)(2)(C)(iv), as added by paragraph (1), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such section not later than 30 days after the date of enactment of this Act [Jan. 8, 2002].”

#### ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

Pub. L. 102–484, div. A, title III, § 386, Oct. 23, 1992, 106 Stat. 2394, as amended by Pub. L. 103–160, div. A, title III, § 373(a), (b), Nov. 30, 1993, 107 Stat. 1635, 1636; Pub. L. 103–382, title III, § 391(d), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 104–106, div. A, title X, § 1074(c)–(e), (h), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 105–85, div. A, title III, § 381(e), Nov. 18, 1997, 111 Stat. 1709; Pub. L. 106–65, div. A, title III, § 351(e), Oct. 5, 1999, 113 Stat. 572, which required the Secretary of Defense, in consultation with the Secretary of Education, to provide financial assistance to certain local educational agencies in States, was repealed by Pub. L. 109–163, div. A, title V, § 572(g), Jan. 6, 2006, 119 Stat. 3273. See section 7703b of this title.

#### NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

For provisions requiring Secretary of Defense to identify local educational agencies that will experience at least a 5-percent increase or 10-percent reduction in enrollment in number of dependent children of members of Armed Forces and of civilian employees of Department of Defense enrolled in schools under jurisdiction of such agencies during next academic year as a result of closure or realignment of a military installation, and to transmit notice of schedule of such closure or realignment to affected local and State educational agencies, see section 2833 of Pub. L. 101–189, set out as a note under section 2687 of Title 10, Armed Forces.

### § 7703a. Impact aid for children with severe disabilities

#### (a) Payments

Subject to subsection (f), the Secretary of Defense shall make a payment for fiscal years after fiscal year 2001, to each local educational agency eligible to receive a payment for a child described in subparagraph (A)(ii) or (B), or clause (i) or (ii) of subparagraph (D), of section 7703(a)(1)<sup>1</sup> of this title that serves two or more such children with severe disabilities, for costs

incurred in providing a free appropriate public education to each such child.

#### (b) Payment amount

The amount of the payment under subsection (a) to a local educational agency for a fiscal year for each child referred to in such subsection with a severe disability shall be—

(1) the payment made on behalf of the child with a severe disability that is in excess of the average per pupil expenditure in the State in which the local educational agency is located; less

(2) the sum of the funds received by the local educational agency—

(A) from the State in which the child resides to defray the educational and related services for such child;

(B) under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to defray the educational and related services for such child; and

(C) from any other source to defray the costs of providing educational and related services to the child which are received due to the presence of a severe disabling condition of such child.

#### (c) Exclusions

No payment shall be made under subsection (a) on behalf of a child with a severe disability whose individual cost of educational and related services does not exceed—

(1) five times the national or State average per pupil expenditure (whichever is lower), for a child who is provided educational and related services under a program that is located outside the boundaries of the school district of the local educational agency that pays for the free appropriate public education of the student; or

(2) three times the State average per pupil expenditure, for a child who is provided educational and related services under a program offered by the local educational agency, or within the boundaries of the school district served by the local educational agency.

#### (d) Ratable reduction

If the amount available for a fiscal year for payments under subsection (a) is insufficient to pay the full amount all local educational agencies are eligible to receive under such subsection, the Secretary of Defense shall ratably reduce the amounts of the payments made under such subsection to all local educational agencies by an equal percentage.

#### (e) Report

Each local educational agency desiring a payment under subsection (a) shall report to the Secretary of Defense—

(1) the number of severely disabled children for which a payment may be made under this section; and

(2) a breakdown of the average cost, by placement (inside or outside the boundaries of the school district of the local educational agency), of providing education and related services to such children.

#### (f) Payments subject to appropriation

Payments shall be made for any period in a fiscal year under this section only to the extent

<sup>1</sup> See References in Text note below.

that funds are appropriated specifically for making such payments for that fiscal year.

**(g) Local educational agency defined**

In this section, the term “local educational agency” has the meaning given that term in section 7713 of this title.

(Pub. L. 106–398, § 1 [[div. A], title III, § 363], Oct. 30, 2000, 114 Stat. 1654, 1654A–77; Pub. L. 114–95, title IX, § 9215(kk), Dec. 10, 2015, 129 Stat. 2175.)

REFERENCES IN TEXT

Section 7703(a)(1) of this title, referred to in subsec. (a), was in the original “section 7003(a)(1)” and was translated as meaning section 7003(a)(1) of the Elementary and Secondary Education Act of 1965, which is classified to section 7703(a)(1) of this title, to reflect the probable intent of Congress.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section was enacted as part of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, § 9215(kk)(1), substituted “subparagraph (A)(ii) or (B), or clause (i) or (ii) of subparagraph (D), of section 7703(a)(1) of this title” for “subparagraph (A)(ii), (B), (D)(i) or (D)(ii) of section 7703(a)(1) of this title”.

Subsec. (g). Pub. L. 114–95, § 9215(kk)(2), substituted “section 7713 of this title.” for “section 7713(9) of this title.”

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

**§ 7703b. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees**

**(a) Assistance to schools with significant numbers of military dependent students**

**(1) Assistance authorized**

The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

**(2) Eligible local educational agencies**

A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average

daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 7703(a)(1) of this title.

**(b) Assistance to schools with enrollment changes due to base closures, force structure changes, or force relocations**

**(1) Assistance authorized**

To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

**(2) Eligible local educational agencies**

A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of the local educational agency is the result of one or more of the following:

(i) The global rebasing plan of the Department of Defense.

(ii) The official creation or activation of one or more new military units.

(iii) The realignment of forces as a result of the base closure process.

(iv) A change in the number of housing units on a military installation.

**(3) Calculation of amount of assistance**

**(A) Pro rata distribution**

The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for that fiscal year; by

(ii) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under paragraph (1).

**(B) Per-student rate**

For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be