

retary of Defense) who agree to serve on active duty in Afghanistan for a minimum of three years. The assignment period required by the agreement shall provide for reasonable periods of leave.

“(b) REPORTING REQUIREMENTS.—The Secretary shall submit to Congress an annual report on the use of the authority provided under subsection (a) during the preceding year, including—

“(1) the number of members of the Armed Forces receiving assignment pay or special duty pay under section 352 of title 37, United States Code, in excess of the maximum amount otherwise authorized under such section; and

“(2) an assessment of the impact of the use of such authority on the effectiveness and efficiency in achieving the United States mission in Afghanistan.

“(c) DURATION OF AUTHORITY.—The authority provided by subsection (a) to offer additional assignment pay or special duty pay under section 352 of title 37, United States Code, expires on December 31, 2012. The expiration of such authority shall not affect the terms or duration of any agreement entered into before that date to provide additional assignment pay or special duty pay under such section.”

### § 353. Skill incentive pay or proficiency bonus

(a) SKILL INCENTIVE PAY.—The Secretary concerned may pay a monthly skill incentive pay to a member of a regular or reserve component of the uniformed services who—

(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

(2) serves in a career field or skill designated as critical by the Secretary concerned.

(b) SKILL PROFICIENCY BONUS.—

(1) AVAILABILITY; ELIGIBLE PERSONS.—The Secretary concerned may pay a proficiency bonus to a member of a regular or reserve component of the uniformed services who—

(A) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title or is enrolled in an officer training program; and

(B) is determined to have, and maintains, certified proficiency under subsection (d) in a skill designated as critical by the Secretary concerned or is in training to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical by the Secretary concerned.

(2) INCLUSION OF CERTAIN SENIOR ROTC MEMBERS.—A proficiency bonus may be paid under this subsection to a student who is enrolled in the Senior Reserve Officers' Training Corps program even though the student is in the first year of the four-year course under the program. During the period covered by the proficiency bonus, the student shall also be entitled to a monthly subsistence allowance under section 209(c) of this title even though the student has not entered into an agreement under section 2103a of title 10. However, if the student receives incentive pay under subsection (g)(2)<sup>1</sup> for the same period, the student may receive only a single monthly subsistence allowance under section 209(c) of this title.

(c) MAXIMUM AMOUNTS AND METHODS OF PAYMENT.—

(1) SKILL INCENTIVE PAY.—(A) Skill incentive pay under subsection (a) may not exceed \$1,000 a month.

(B) If a member does not satisfy the eligibility requirements specified in paragraphs (1) and (2) of subsection (a) for an entire month for receipt of skill incentive pay, the Secretary concerned may prorate the payment amount to reflect the duration of the member's actual qualifying service during the month. A member of a reserve component entitled to compensation under section 206 of this title who is authorized skill incentive pay under subsection (a) may be paid an amount of such pay that is proportionate to the compensation received by the member under section 206 of this title for inactive-duty training.

(2) PROFICIENCY BONUS.—A proficiency bonus under subsection (b) may be paid in a lump sum at the beginning of the proficiency certification period or in periodic installments during the proficiency certification period. The amount of the bonus may not exceed \$12,000 for each 12-month period of certification. The Secretary concerned may not vary the criteria or rates for the proficiency bonus paid for officers and enlisted members.

(d) CERTIFIED PROFICIENCY FOR PROFICIENCY BONUS.—

(1) CERTIFICATION REQUIRED.—Proficiency in a designated critical skill for purposes of subsection (b) shall be subject to annual certification by the Secretary concerned.

(2) DURATION OF CERTIFICATION.—A certification period for purposes of subsection (c)(2) shall expire at the end of the one-year period beginning on the first day of the first month beginning on or after the certification date.

(3) WAIVER.—Notwithstanding paragraphs (1) and (2), the regulations prescribed to administer this section shall address the circumstances under which the Secretary concerned may waive the certification requirement under paragraph (1) or extend a certification period under paragraph (2).

(e) WRITTEN AGREEMENT.—

(1) DISCRETIONARY FOR SKILL INCENTIVE PAY.—The Secretary concerned may require a member to enter into a written agreement with the Secretary in order to qualify for the payment of skill incentive pay under subsection (a). The written agreement shall specify the period for which the skill incentive pay will be paid to the member and the monthly rate of the pay.

(2) REQUIRED FOR PROFICIENCY BONUS.—The Secretary concerned shall require a member to enter into a written agreement with the Secretary in order to qualify for payment of a proficiency bonus under subsection (b). The written agreement shall specify the amount of the proficiency bonus, the period for which the bonus will be paid, and the initial certification or recertification necessary for payment of the proficiency bonus.

(f) FOREIGN LANGUAGE STUDIES IN OFFICER TRAINING PROGRAMS.—

(1) AVAILABILITY OF INCENTIVE PAY.—The Secretary concerned may pay incentive pay to

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

a person enrolled in an officer training program to also participate in an education or training program to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical by the Secretary concerned.

(2) INCLUSION OF CERTAIN SENIOR ROTC MEMBERS.—Incentive pay may be paid under this subsection to a student who is enrolled in the Senior Reserve Officers' Training Corps program even though the student is in the first year of the four-year course under the program. While the student receives the incentive pay, the student shall also be entitled to a monthly subsistence allowance under section 209(c) of this title even though the student has not entered into an agreement under section 2103a of title 10. However, if the student receives a proficiency bonus under subsection (b)(2) covering the same month, the student may receive only a single monthly subsistence allowance under section 209(c) of this title.

(3) CRITICAL FOREIGN LANGUAGE DEFINED.—In this section, the term "critical foreign language" includes Arabic, Korean, Japanese, Chinese, Pashto, Persian-Farsi, Serbian-Croatian, Russian, Portuguese, or other language designated as critical by the Secretary concerned.

(g) REPAYMENT.—A member who receives skill incentive pay or a proficiency bonus under this section and who fails to fulfill the eligibility requirement for receipt of the pay or bonus shall be subject to the repayment provisions of section 373 of this title.

(h) RELATIONSHIP TO OTHER PAYS AND ALLOWANCES.—A member may not be paid more than one pay under this section in any month for the same period of service and skill. A member may be paid skill incentive pay or the proficiency bonus under this section in addition to any other pay and allowances to which the member is entitled, except that a member may not be paid skill incentive pay or a proficiency bonus under this section and hazardous duty pay under section 351 of this title for the same period of service in the same career field or skill.

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2022.

(Added Pub. L. 110-181, div. A, title VI, §661(a)(2), Jan. 28, 2008, 122 Stat. 175; amended Pub. L. 110-417, [div. A], title VI, §619(a), Oct. 14, 2008, 122 Stat. 4487; Pub. L. 111-84, div. A, title VI, §§614(8), 618(d), Oct. 28, 2009, 123 Stat. 2354, 2356; Pub. L. 111-383, div. A, title VI, §614(8), Jan. 7, 2011, 124 Stat. 4237; Pub. L. 112-81, div. A, title VI, §614(8), Dec. 31, 2011, 125 Stat. 1450; Pub. L. 112-239, div. A, title VI, §614(8), Jan. 2, 2013, 126 Stat. 1777; Pub. L. 113-66, div. A, title VI, §614(8), Dec. 26, 2013, 127 Stat. 781; Pub. L. 113-291, div. A, title VI, §614(9), Dec. 19, 2014, 128 Stat. 3401; Pub. L. 114-92, div. A, title VI, §614(9), Nov. 25, 2015, 129 Stat. 839; Pub. L. 114-328, div. A, title VI, §614(9), Dec. 23, 2016, 130 Stat. 2159; Pub. L. 115-91, div. A, title VI, §614(9), Dec. 12, 2017, 131 Stat. 1422; Pub. L. 115-232, div. A, title VI, §611(d)(8), Aug. 13, 2018, 132 Stat. 1797; Pub. L. 116-92, div. A, title VI, §611(d)(8), Dec. 20, 2019,

133 Stat. 1426; Pub. L. 116-283, div. A, title VI, §611(d)(8), Jan. 1, 2021, 134 Stat. 3673; Pub. L. 117-81, div. A, title VI, §611(d)(8), Dec. 27, 2021, 135 Stat. 1769.)

### Editorial Notes

#### REFERENCES IN TEXT

Subsection (g)(2), referred to in subsec. (b)(2), was redesignated subsec. (f)(2) by Pub. L. 111-84, div. A, title VI, §618(d)(1), Oct. 28, 2009, 123 Stat. 2356.

#### AMENDMENTS

2021—Subsec. (i). Pub. L. 117-81 substituted "December 31, 2022" for "December 31, 2021".

Pub. L. 116-283 substituted "December 31, 2021" for "December 31, 2020".

2019—Subsec. (i). Pub. L. 116-92 substituted "December 31, 2020" for "December 31, 2019".

2018—Subsec. (i). Pub. L. 115-232 substituted "December 31, 2019" for "December 31, 2018".

2017—Subsec. (i). Pub. L. 115-91 substituted "December 31, 2018" for "December 31, 2017".

2016—Subsec. (i). Pub. L. 114-328 substituted "December 31, 2017" for "December 31, 2016".

2015—Subsec. (i). Pub. L. 114-92 substituted "December 31, 2016" for "December 31, 2015".

2014—Subsec. (i). Pub. L. 113-291 substituted "December 31, 2015" for "December 31, 2014".

2013—Subsec. (i). Pub. L. 113-66 substituted "December 31, 2014" for "December 31, 2013".

Pub. L. 112-239 substituted "December 31, 2013" for "December 31, 2012".

2011—Subsec. (i). Pub. L. 112-81 substituted "December 31, 2012" for "December 31, 2011".

Pub. L. 111-383 substituted "December 31, 2011" for "December 31, 2010".

2009—Subsec. (c)(1). Pub. L. 111-84, §618(d)(2), added par. (1) and struck out former par. (1) which provided that skill incentive pay was not to exceed \$1,000 per month.

Subsecs. (f) to (i). Pub. L. 111-84, §618(d)(1), redesignated subsecs. (g) to (j) as (f) to (i), respectively, and struck out former subsec. (f) which related to reserve component members performing inactive duty training.

Subsec. (j). Pub. L. 111-84, §618(d)(1), redesignated subsec. (j) as (i).

Pub. L. 111-84, §614(8), substituted "December 31, 2010" for "December 31, 2009".

2008—Subsec. (b). Pub. L. 110-417, §619(a)(1), amended subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary concerned may pay a proficiency bonus to a member of a regular or reserve component of the uniformed services who—

"(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

"(2) is determined to have, and maintains, certified proficiency under subsection (d) in a skill designated as critical by the Secretary concerned."

Subsecs. (g) to (j). Pub. L. 110-417, §619(a)(2), added subsec. (g) and redesignated former subsecs. (g) to (i) as (h) to (j), respectively.

### Statutory Notes and Related Subsidiaries

#### PILOT PROGRAM FOR FOREIGN LANGUAGE PROFICIENCY TRAINING FOR RESERVE MEMBERS

Pub. L. 110-417, [div. A], title VI, §619(c), Oct. 14, 2008, 122 Stat. 4489, provided that:

"(1) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall conduct a pilot program to provide a skill proficiency bonus under section 353(b) of title 37, United States Code, to a member of a reserve component of the uniformed services who is entitled to compensation under section 206 of such title while the member participates in an education or training pro-

gram to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical under such section 353.

“(2) DURATION OF PILOT PROGRAM.—The Secretary shall conduct the pilot program during the period beginning on October 1, 2008, and ending on December 31, 2013. Incentive pay may not be provided under the pilot program after December 31, 2013.

“(3) REPORTING REQUIREMENT.—Not later than March 31, 2012, the Secretary shall submit to Congress a report containing the results of the pilot program and the recommendations of the Secretary regarding whether to continue or expand the pilot program.”

#### EXPEDITED IMPLEMENTATION

Pub. L. 110-417, [div. A], title VI, §619(d), Oct. 14, 2008, 122 Stat. 4489, as amended by Pub. L. 111-383, div. A, title X, §1075(e)(10), Jan. 7, 2011, 124 Stat. 4375, provided that: “Notwithstanding section 662 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 180; 37 U.S.C. 301 note), the Secretary of a military department may immediately implement the amendments made by subsection (a) [amending this section] in order to ensure the prompt availability of proficiency bonuses and incentive pay under section 353 of title 37, United States Code, as amended by such subsection, for persons enrolled in officer training programs.”

#### § 354. Special pay: 15-year career status bonus for members entering service on or after August 1, 1986

(a) AVAILABILITY OF BONUS.—The Secretary concerned shall pay a bonus under this section to an eligible career bonus member if the member—

(1) elects to receive the bonus under this section; and

(2) executes a written agreement (prescribed by the Secretary concerned) to remain continuously on active duty until the member has completed 20 years of active-duty service creditable under section 1405 of title 10.

(b) ELIGIBLE CAREER BONUS MEMBER DEFINED.—In this section, the term “eligible career bonus member” means a member of a uniformed service serving on active duty who—

(1) first became a member on or after August 1, 1986; and

(2) has completed 15 years of active duty in the uniformed services (or has received notification under subsection (e) that the member is about to complete that duty).

(c) ELECTION METHOD.—An election under subsection (a)(1) shall be made in such form and within such period as the Secretary concerned may prescribe. An election under that subsection is irrevocable.

(d) AMOUNT OF BONUS; PAYMENT.—(1) A bonus under this section shall be equal to \$30,000.

(2) A member electing to receive the bonus under this section shall elect one of the following payment options:

(A) A single lump sum of \$30,000.

(B) Two installments of \$15,000 each.

(C) Three installments of \$10,000 each.

(D) Four installments of \$7,500 each.

(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.—(1) If a person paid a bonus under this section does not complete a period of active duty beginning on the date on which the election of the person under paragraph (1) of subsection (a) is received and ending on the date on which the person completes 20 years of active duty service as described in paragraph (2) of such subsection, the person shall be subject to the repayment provisions of section 373 of this title.

(2) If a person who is paid a bonus under this section subsequently makes an election described in section 1409(b)(4)(B) of title 10, the person shall repay any bonus payments received under this section in the same manner as repayments are made under section 373 of this title.

(g) SUNSET AND CONTINUATION OF PAYMENTS.—(1) A Secretary concerned may not pay a new bonus under this section after December 31, 2017.

(2) Subject to subsection (f)(2), the Secretary concerned may continue to make payments for bonuses that were awarded under this section on or before the date specified in paragraph (1).

(Added Pub. L. 106-65, div. A, title VI, §642(a), Oct. 5, 1999, 113 Stat. 662, §322; amended Pub. L. 107-107, div. A, title VI, §620(a), Dec. 28, 2001, 115 Stat. 1138; Pub. L. 109-163, div. A, title VI, §687(b)(30), Jan. 6, 2006, 119 Stat. 3332; renumbered §354 and amended Pub. L. 110-181, div. A, title VI, §661(b)(1), (2), Jan. 28, 2008, 122 Stat. 178; Pub. L. 114-92, div. A, title VI, §631(c)(2), Nov. 25, 2015, 129 Stat. 844.)