

be subject to the repayment provisions of section 303a(e) of this title.

(e) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(f) TERMINATION OF AUTHORITY.—No incentive pay may be paid under this section after December 31, 2018.

(Added Pub. L. 110–417, [div. A], title VI, § 619(b)(1), Oct. 14, 2008, 122 Stat. 4488; amended Pub. L. 112–81, div. A, title X, § 1065(b), Dec. 31, 2011, 125 Stat. 1588; Pub. L. 113–66, div. A, title VI, § 616, Dec. 26, 2013, 127 Stat. 781; Pub. L. 113–291, div. A, title VI, § 615(5), Dec. 19, 2014, 128 Stat. 3401; Pub. L. 114–92, div. A, title VI, § 615(5), title X, § 1072(a), Nov. 25, 2015, 129 Stat. 839, 994; Pub. L. 114–328, div. A, title VI, § 615(5), Dec. 23, 2016, 130 Stat. 2159; Pub. L. 115–91, div. A, title VI, § 615(5), Dec. 12, 2017, 131 Stat. 1423.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 316a, added Pub. L. 102–190, div. A, title VI, § 636(a), Dec. 5, 1991, 105 Stat. 1382, related to waiver of certification requirement, prior to repeal by Pub. L. 108–375, div. A, title VI, § 620(b)(1), Oct. 28, 2004, 118 Stat. 1954.

##### AMENDMENTS

2017—Subsec. (f). Pub. L. 115–91, which directed amendment of this section by substituting “December 31, 2018” for “December 31, 2017” in subsec. (g), was executed by making the substitution in subsec. (f) to reflect the probable intent of Congress and the redesignation of subsec. (g) as (f) by Pub. L. 114–92, § 1072(a)(2). See 2015 Amendment note below.

2016—Subsec. (f). Pub. L. 114–328, which directed amendment of this section by substituting “December 31, 2017” for “December 31, 2016” in subsec. (g), was executed by making the substitution in subsec. (f) to reflect the probable intent of Congress and the redesignation of subsec. (g) as (f) by Pub. L. 114–92, § 1072(a)(2). See 2015 Amendment note below.

2015—Subsec. (f). Pub. L. 114–92, § 1072(a), redesignated subsec. (g) as (f) and struck out former subsec. (f) which related to annual reports on the payment of incentive pay under this section.

Subsec. (g). Pub. L. 114–92, § 1072(a)(2), redesignated subsec. (g) as (f).

Pub. L. 114–92, § 615(5), substituted “December 31, 2016” for “December 31, 2015”.

2014—Subsec. (g). Pub. L. 113–291 substituted “December 31, 2015” for “December 31, 2014”.

2013—Subsec. (g). Pub. L. 113–66 substituted “December 31, 2014” for “December 31, 2013”.

2011—Subsec. (f). Pub. L. 112–81 substituted “April 1, 2012” for “January 1, 2010” in introductory provisions.

#### § 317. Special pay: officers in critical acquisition positions extending period of active duty

(a) BONUS AUTHORIZED.—An officer described in subsection (b) who executes a written agreement to remain on active duty in a critical acquisition position for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of the Army, Navy, Air Force, or Marine Corps who—

(1) is a member of the acquisition workforce selected to serve in, or serving in, a critical

acquisition position designated under section 1731 of title 10.<sup>1</sup>

(2) is eligible to retire, or is assigned to such position for a period that will extend beyond the date on which the officer will be eligible to retire, under any provision of law.

(c) AMOUNT OF BONUS.—The amount of a bonus paid under this section for each year a member agrees to remain on active duty may not be more than 15 percent of the annual rate of basic pay paid to the member at the time the member executes a written agreement under this section.

(d) PAYMENT OF BONUS.—Upon the acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid by the Secretary in either a lump sum or installments.

(e) ADDITIONAL PAY.—A bonus paid under this section is in addition to other pay and allowances to which an officer is entitled.

(f) REPAYMENT.—An officer who, having entered into a written agreement under subsection (a) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(g) PERIOD OF COMMITMENT.—The period of active duty agreed upon by an officer in a written agreement under this section is in addition to any other service commitment of the officer, except that any period of active duty agreed upon in a written agreement under subsection (a)(2) or (b)(2) of section 1734 of title 10 by the officer may be counted concurrently with the commitment under this section.

(h) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

(Added Pub. L. 101–510, div. A, title XII, § 1203(a)(1), Nov. 5, 1990, 104 Stat. 1656; amended Pub. L. 109–163, div. A, title VI, § 687(b)(26), Jan. 6, 2006, 119 Stat. 3331; Pub. L. 116–92, div. A, title VIII, § 861(j)(17), Dec. 20, 2019, 133 Stat. 1520.)

#### Editorial Notes

##### AMENDMENTS

2019—Subsec. (b)(1). Pub. L. 116–92, which directed the general amendment of par. (1) of section 317 of this title, was executed by making the amendment to par. (1) of subsec. (b) of this section to reflect the probable intent of Congress. Prior to amendment, subsec. (b)(1) read as follows: “is a member of an Acquisition Corps selected to serve in, or serving in, a critical acquisition position designated under section 1733 of title 10; and”.

2006—Subsec. (f). Pub. L. 109–163 amended heading and text of subsec. (f) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment of bonus required when officer fails to complete total period of agreed upon active duty.

<sup>1</sup> So in original. The period probably should be “; and”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Pub. L. 101-510, div. A, title XII, § 1203(b), Nov. 5, 1990, 104 Stat. 1658, provided that: "Section 317 of title 37, United States Code, as added by subsection (a), shall take effect as of October 1, 1991."

## 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.

**§ 318. Special pay: special warfare officers extending period of active duty**

(a) SPECIAL WARFARE OFFICER DEFINED.—In this section, the term "special warfare officer" means an officer of a uniformed service who—

(1) is qualified for a military occupational specialty or designator identified by the Secretary concerned as a special warfare military occupational specialty or designator; and

(2) is serving in a position for which that specialty or designator is authorized.

(b) RETENTION BONUS AUTHORIZED.—A special warfare officer who meets the eligibility requirements specified in subsection (c) and who executes a written agreement to remain on active duty in special warfare service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(c) ELIGIBILITY REQUIREMENTS.—A special warfare officer may apply to enter into an agreement referred to in subsection (b) if the officer—

(1) is in pay grade O-3, or is in pay grade O-4 and is not on a list of officers recommended for promotion, at the time the officer applies to enter into the agreement;

(2) has completed at least 6, but not more than 14, years of active commissioned service; and

(3) has completed any service commitment incurred to be commissioned as an officer.

(d) AMOUNT OF BONUS.—The amount of a retention bonus paid under this section may not be more than \$15,000 for each year covered by the agreement.

(e) PRORATION.—The term of an agreement under subsection (b) and the amount of the retention bonus payable under subsection (d) may be prorated as long as the agreement does not extend beyond the date on which the officer executing the agreement would complete 14 years of active commissioned service.

(f) PAYMENT METHODS.—(1) Upon acceptance of an agreement under subsection (b) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed.

(2) The amount of the retention bonus may be paid as follows:

(A) At the time the agreement is accepted by the Secretary concerned, the Secretary may make a lump sum payment equal to half the total amount payable under the agreement. The balance of the bonus amount shall

be paid in equal annual installments on the anniversary of the acceptance of the agreement.

(B) The Secretary concerned may make graduated annual payments under regulations prescribed by the Secretary, with the first payment being payable at the time the agreement is accepted by the Secretary and subsequent payments being payable on the anniversary of the acceptance of the agreement.

(g) ADDITIONAL PAY.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

(h) REPAYMENT.—An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty in special warfare service as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(i) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section, including the definition of the term "special warfare service" for purposes of this section. Regulations prescribed by the Secretary of a military department under this section shall be subject to the approval of the Secretary of Defense.

(Added Pub. L. 106-65, div. A, title VI, § 626(a)(1), Oct. 5, 1999, 113 Stat. 655; amended Pub. L. 107-107, div. A, title X, § 1048(i)(7), Dec. 28, 2001, 115 Stat. 1229; Pub. L. 109-163, div. A, title VI, § 687(b)(27), Jan. 6, 2006, 119 Stat. 3331.)

**Editorial Notes**

## AMENDMENTS

2006—Subsec. (h). Pub. L. 109-163 amended heading and text of subsec. (h) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment required when officer receives bonus but fails to complete total period of agreed upon active duty in special warfare.

2001—Subsec. (h)(3). Pub. L. 107-107 substituted "subsection (b)" for "subsection (a)".

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Pub. L. 106-65, div. A, title VI, § 626(b), Oct. 5, 1999, 113 Stat. 656, provided that: "The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 1999."

## 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.

**§ 319. Special pay: surface warfare officer continuation pay**

(a) ELIGIBLE SURFACE WARFARE OFFICER DEFINED.—In this section, the term "eligible surface warfare officer" means an officer of the