

of providing an annual bonus to a member under the authority of this subsection, the Secretary concerned”.

Subsec. (d)(3). Pub. L. 109-163, § 639(d)(2)(C), struck out “special pay or” before “a bonus under” and before “bonus was paid” and substituted “subsection (f)” for “subsection (h)”.

Subsec. (d)(4). Pub. L. 109-163, § 639(d)(2)(D), substituted “section 303a(e) of this title” for “subsection (g)”.

Subsec. (e). Pub. L. 109-163, § 687(b)(25), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

“(1) A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall repay to the United States the amount of the bonus so paid, except as otherwise prescribed under paragraph (2).

“(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

“(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the date on which the member received the bonus does not discharge the member from a debt arising under paragraph (1).”

Pub. L. 109-163, § 639(b)(1), (c), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows:

“(1) Except as provided in paragraph (2), special pay or a bonus paid under this section is in addition to any other pay or allowance payable to a member under any other provision of law.

“(2) If a member of a reserve component serving on active duty receives special pay under subsection (a) for any month occurring during a certification period in which the member received, or is receiving, a bonus under subsection (b), the amount of the special pay paid to the member for the month shall be reduced by an amount equal to 1/2 of the bonus amount.”

Subsec. (f). Pub. L. 109-163, § 639(b)(2), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsec. (g). Pub. L. 109-163, § 639(b)(1), struck out heading and text of subsec. (g). Text read as follows:

“(1) The Secretary concerned may require a member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, to repay to the United States an amount which bears the same ratio to the total amount of the bonus paid to the member as the unsatisfied portion of the certification period bears to the entire certification period.

“(2) An obligation to repay the United States imposed under paragraph (1) or subsection (f)(4) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered for the member less than five years after the expiration of the certification period does not discharge the member from a debt arising under this paragraph. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.”

Subsec. (h). Pub. L. 109-163, § 639(b)(2), redesignated subsec. (h) as (f).

2004—Pub. L. 108-375 amended section catchline and text generally, substituting provisions relating to special pay and bonus for members with foreign language proficiency for former provisions which related to: in subsec. (a) requirements for payment of special pay to member of uniformed services who is entitled to basic pay under section 204 of this title for foreign language proficiency; in subsec. (b) determination of monthly rate for special pay; in subsec. (c) increased compensa-

tion for member of reserve component who is entitled to compensation under section 206 of this title and who generally meets requirements in subsec. (a); and in subsec. (d) administration of section.

2002—Subsec. (d). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1999—Subsec. (b). Pub. L. 106-65 substituted “\$300” for “\$100”.

1996—Subsec. (a). Pub. L. 104-201, § 616(a)(1), substituted “uniformed services” for “armed forces” in introductory provisions.

Subsec. (a)(2). Pub. L. 104-201, § 616(a)(2), substituted “Secretary concerned as being” for “Secretary of Defense as being” and inserted “or public health” after “national defense”.

Subsec. (a)(3)(A). Pub. L. 104-201, § 616(a)(3)(A), substituted “uniformed services” for “military”.

Subsec. (a)(3)(C). Pub. L. 104-201, § 616(a)(3)(B), struck out “military” before “duties requiring”.

Subsec. (a)(3)(D). Pub. L. 104-201, § 616(a)(3)(C), substituted “uniformed service” for “Department of Defense” and “Secretary concerned” for “Secretary of Defense”.

Subsec. (d). Pub. L. 104-201, § 616(b), substituted “the jurisdiction of the Secretary,” for “his jurisdiction and” and inserted before period at end “, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration”.

#### 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 OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title VI, § 625(b), Oct. 5, 1999, 113 Stat. 654, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to foreign language proficiency pay paid under section 316 of such title for months beginning on or after that date.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title VI, § 616(c), Sept. 23, 1996, 110 Stat. 2547, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1996, and apply with respect to months beginning on or after such date.”

#### EFFECTIVE DATE

Pub. L. 99-661, div. A, title VI, § 634(b), Nov. 14, 1986, 100 Stat. 3885, provided that: “Section 316 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Nov. 14, 1986], and shall apply with respect to pay periods beginning on or after that date.”

#### 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.

### § 316a. Special pay: incentive pay for members of precommissioning programs pursuing foreign language proficiency

(a) INCENTIVE PAY.—The Secretary of Defense may pay incentive pay under this section to an individual who—

(1) is enrolled as a member of the Senior Reserve Officers' Training Corps or the Marine Corps Platoon Leaders Class, as determined in accordance with regulations prescribed by the Secretary of Defense under subsection (e); and

(2) participates in a language immersion program approved for purposes of the Senior Reserve Officers' Training Corps, or in study abroad, or is enrolled in an academic course that involves instruction in a foreign language of strategic interest to the Department of Defense as designated by the Secretary of Defense for purposes of this section.

(b) PERIOD OF PAYMENT.—Incentive pay is payable under this section to an individual described in subsection (a) for the period of the individual's participation in the language program or study described in paragraph (2) of that subsection.

(c) AMOUNT.—The amount of incentive pay payable to an individual under this section may not exceed \$3,000 per year.

(d) REPAYMENT.—An individual who is paid incentive pay under this section but who does not satisfactorily complete participation in the individual's language program or study as described in subsection (a)(2), or who does not complete the requirements of the Senior Reserve Officers' Training Corps or the Marine Corps Platoon Leaders Class, as applicable, shall 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.)

#### 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 sec-

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