

tion. 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.)

#### 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.

#### 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.)

#### 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)”.

#### 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 Regular Navy or Navy Reserve on active duty who—

(1) is qualified and serving as a surface warfare officer;

(2) has been selected for assignment as a department head on a surface vessel; and

(3) has completed any service commitment incurred through the officer’s original commissioning program or is within one year of completing such commitment.

(b) SPECIAL PAY AUTHORIZED.—An eligible surface warfare officer who executes a written agreement to remain on active duty to complete one or more tours of duty to which the officer may be ordered as a department head on a surface vessel may, upon the acceptance of the agreement by the Secretary of the Navy, be paid an amount not to exceed \$50,000.

(c) PRORATION.—The term of the written agreement under subsection (b) and the amount payable under the agreement may be prorated.

(d) PAYMENT METHODS.—Upon acceptance of the written agreement under subsection (b) by the Secretary of the Navy, the total amount payable pursuant to the agreement becomes fixed. The Secretary shall prepare an implementation plan specifying the amount of each installment payment under the agreement and the times for payment of the installments.

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

(f) 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 as a department head on a surface vessel as specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

(g) REGULATIONS.—The Secretary of the Navy shall prescribe regulations to carry out this section.

(Added Pub. L. 106-65, div. A, title VI, § 627(a)(1), Oct. 5, 1999, 113 Stat. 656; amended Pub. L. 107-107, div. A, title VI, § 616(b), Dec. 28, 2001, 115 Stat. 1137; Pub. L. 109-163, div. A, title V, § 515(d)(1)(E), title VI, § 687(b)(28), Jan. 6, 2006, 119 Stat. 3236, 3332.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163, § 515(d)(1)(E), substituted “Navy Reserve” for “Naval Reserve” in introductory provisions.

Subsec. (f). Pub. L. 109-163, § 687(b)(28), amended heading and text of subsec. (f) 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 as department head on surface vessel.

2001—Subsec. (a)(3). Pub. L. 107-107 inserted “or is within one year of completing such commitment” before period at end.

EFFECTIVE DATE

Pub. L. 106-65, div. A, title VI, § 627(b), Oct. 5, 1999, 113 Stat. 657, 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.

**§ 320. Incentive pay: career enlisted flyers**

(a) ELIGIBLE CAREER ENLISTED FLYER DEFINED.—In this section, the term “eligible career enlisted flyer” means an enlisted member of the armed forces who—

(1) is entitled to basic pay under section 204 of this title, or is entitled to pay under section 206 of this title as described in subsection (e) of this section;

(2) holds an enlisted military occupational specialty or enlisted military rating designated as a career enlisted flyer specialty or rating by the Secretary concerned, performs duty as a dropsonde system operator, or is in training leading to qualification and designation of such a specialty or rating or the performance of such duty;

(3) is qualified for aviation service under regulations prescribed by the Secretary concerned; and

(4) satisfies the operational flying duty requirements applicable under subsection (c).

(b) INCENTIVE PAY AUTHORIZED.—(1) The Secretary concerned may pay monthly incentive pay to an eligible career enlisted flyer in an amount not to exceed the monthly maximum amounts specified in subsection (d). The incentive pay may be paid as continuous monthly incentive pay or on a month-to-month basis, dependent upon the operational flying duty performed by the eligible career enlisted flyer as prescribed in subsection (c).

(2) Continuous monthly incentive pay may not be paid to an eligible career enlisted flyer after the member completes 25 years of aviation service. Thereafter, an eligible career enlisted flyer may still receive incentive pay on a month-to-month basis under subsection (c)(4) for the frequent and regular performance of operational flying duty.

(c) OPERATIONAL FLYING DUTY REQUIREMENTS.—(1) An eligible career enlisted flyer must perform operational flying duties for 6 of the first 10, 9 of the first 15, and 14 of the first 20 years of aviation service, to be eligible for