


37 U.S.C.A. § 316

§ 316. Special pay and bonus for members with * * *
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37 U.S.C.A. § 316

United States Code Annotated [Currentness](#)

Title 37. Pay and Allowances of the Uniformed Services ([Refs & Annos](#))

 [Chapter 5](#). Special and Incentive Pays ([Refs & Annos](#))

 **§ 316. Special pay and bonus for members with foreign language proficiency**

(a) Availability of special pay.--Subject to subsection (c), the Secretary concerned may pay monthly special pay under this section to a member of the uniformed services who is entitled to basic pay under [section 204](#) of this title and who--

- (1) is qualified in a uniformed services specialty requiring proficiency in a foreign language identified by the Secretary concerned as a foreign language in which it is necessary to have personnel proficient because of national defense or public health considerations;
- (2) received training, under regulations prescribed by the Secretary concerned, designed to develop a proficiency in such a foreign language;
- (3) is assigned to duties requiring a proficiency in such a foreign language; or
- (4) is proficient in a foreign language for which the uniformed service may have a critical need, as determined by the Secretary concerned.

(b) Availability of bonus.--Subject to subsection (c), the Secretary concerned may pay an annual bonus under this section to a member of a reserve component who satisfies the eligibility requirements specified in paragraph (1), (2), (3), or (4) of subsection (a).

(c) Certification of proficiency.--To be eligible to receive special pay or a bonus under this section, a member described in subsection (a) or (b) must be certified by the Secretary concerned as being proficient in the foreign language for which the special pay or bonus is offered. The certification of the member 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.

(d) Special pay and bonus amounts.--(1) The monthly rate for special pay paid under subsection (a) may not exceed \$1,000.

(2) The maximum amount of the bonus paid to a member under subsection (b) may not exceed \$6,000 for the one-year period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period.

(e) Relationship to other pay or allowance.--(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 1/12 of the bonus amount.

(f) Certification interrupted by contingency operation.--(1) Notwithstanding subsection (c), the Secretary concerned may waive the certification requirement under such subsection and pay monthly special pay or a bonus under this section to a member who--

(A) is assigned to duty in connection with a contingency operation;

(B) is unable to schedule or complete the certification required by subsection (c) because of that assignment; and

(C) except for the lack of such certification, satisfies the eligibility requirements for receipt of special pay under subsection (a) or a bonus under subsection (b), whichever applies to the member.

(2) For purposes of providing an annual bonus to a member under the authority of this subsection, the Secretary concerned may treat the date on which the member was assigned to duty in connection with the contingency operation as equivalent to a certification date. In the case of a member whose certification will expire during such a duty assignment, the Secretary shall commence the next one-year certification period on the date on which the prior certification period expires.

(3) A member who is paid special pay or a bonus under the authority of this subsection shall complete the certification required by subsection (c) for the foreign language for which the special pay or bonus was paid not later than the end of the 180-day period beginning on the date on which the member is released from the assignment in connection with the contingency operation. The Secretary concerned may extend that period for a member in accordance with regulations prescribed under subsection (h).

(4) If a member fails to obtain the required certification under subsection (c) before the end of the period provided under paragraph (3), the Secretary concerned may require the member to repay all or a portion of the bonus in the manner provided in subsection (g).

(g) Repayment of bonus.--(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.

(h) Regulations.--This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, 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.

CREDIT(S)

(Added [Pub.L. 99-661](#), Div. A, Title VI, § 634(a)(1), Nov. 14, 1986, 100 Stat. 3884, and amended [Pub.L. 104-201](#), Div. A, Title VI, § 616(a), (b), Sept. 23, 1996, 110 Stat. 2547; [Pub.L. 106-65](#), Div. A, Title VI, § 625(a), Oct. 5, 1999, 113 Stat. 654; [Pub.L. 107-296, Title XVII, § 1704\(c\)](#), Nov. 25, 2002, 116 Stat. 2314; [Pub.L. 108-375](#), Div. A, Title VI, § 620(a)(1), Oct. 28, 2004, 118 Stat. 1952.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1986 Acts. The committee has been advised that there is an urgent need to enhance the foreign language capabilities of the armed forces. Currently, the Department of State, the National Security Agency and the Central Intelligence Agency each have a special pay program designed to motivate personnel to maintain and enhance foreign language proficiencies. The need for such proficiency in the armed forces is increasing because of the greater cooperation with allies required by our global commitments, because of the need for greater usage of special operations forces, and because of increasing demands for military intelligence.

In order to meet this need, the committee recommends the authorization of a new special pay for foreign language proficiency. Under the committee provision, a member who has been certified as proficient in a foreign language identified by the Secretary of Defense as necessary for national defense and who is (1) qualified in a military speciality or performing military duties requiring such proficiency; (2) receiving training to enhance such proficiency; or (3) is proficient in a foreign language for which the Department of Defense has an unusually critical need may be paid the special pay of not more than \$100 a month.

The committee has also included in its provision a limitation that not more than \$7,300,000 may be obligated or expended during fiscal year 1987 for this special pay. While the committee supports the establishment of this new special pay, it is concerned that it be used in a judicious manner to insure capabilities only for essential needs. The committee will continue to review the limitations on obligations under this new program for a number of years during implementation to insure this type of use. [Senate Report No. 99-331](#).

1996 Acts. [House Report No. 104-563](#) and [House Conference Report No. 104- 724](#), see 1996 U.S. Code Cong. and Adm. News, p. 2948.

1999 Acts. [House Conference Report No. 106-301](#) and Statement by President, see 1999 U.S. Code Cong. and Adm. News, p. 94.

2002 Acts. [House Report No. 107-609](#)(Part I) and Statement by President, see 2002 U.S. Code Cong. and Adm. News, p. 1352.

2004 Acts. [House Conference Report No. 108-767](#), see 2004 U.S. Code Cong. and Adm.

News, p. 1961.

Statement by President, see 2004 U.S. Code Cong. and Adm. News, p. S37.

References in Text

Title 11, referred to in subsec. (g)(2), is [11 U.S.C.A. § 101](#) et seq.

The date of enactment of this section, referred to in subsec. (g)(2), means the date of enactment of [Pub.L. 108-375](#), which enacted this section and was approved on Oct. 28, 2004.

Amendments

2004 Amendments. [Pub.L. 108-375, § 620\(a\)\(1\)](#), rewrote this section, which formerly read:

"§ 316. Special pay: foreign language proficiency pay

"(a) A member of the uniformed services--

"(1) who is entitled to basic pay under section 204 of this title;

"(2) who has been certified by the Secretary concerned within the past 12 months to be proficient in a foreign language identified by the Secretary concerned as being a language in which it is necessary to have personnel proficient because of national defense or public health considerations; and

"(3) who--

"(A) is qualified in a uniformed services specialty requiring such proficiency;

"(B) received training, under regulations prescribed by the Secretary concerned, designed to develop such proficiency;

"(C) is assigned to duties requiring such a proficiency; or

"(D) is proficient in a foreign language for which the uniformed service may have a critical need (as determined by the Secretary concerned),

"may be paid special pay under this section in addition to any other pay or allowance to which the member is entitled.

"(b) The monthly rate for special pay under subsection (a) shall be determined by the Secretary concerned and may not exceed \$300.

"(c)(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title.

"(2) A member eligible for increased compensation under paragraph (1) shall be paid such increase--

"(A) for each regular period of instruction, or period of appropriate duty, in which he is engaged for at least two hours, including instruction received or duty performed on a Sunday or holiday; and

"(B) for each period of performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary concerned may prescribe.

"(3) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

"(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, 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."

2002 Amendments. Subsec. (d). [Pub.L. 107-296, § 1704\(c\)](#), struck out "of Transportation" each place it appeared and inserted "of Homeland Security".

1999 Amendments. Subsec. (b). [Pub.L. 106-65, § 625\(a\)](#), struck out "\$100" and inserted "\$300".

1996 Amendments. Subsec. (a). [Pub.L. 104-201, § 616\(a\)\(1\)](#), substituted "uniformed services" for "armed forces".

Subsec. (a)(2). [Pub.L. 104-201, § 616\(a\)\(2\)\(A\)](#), substituted "Secretary concerned" for "Secretary of Defense".

[Pub.L. 104-201, § 616\(a\)\(2\)\(B\)](#), added "or public health" following "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" preceding "duties requiring such a proficiency;".

Subsec. (a)(3)(D). [Pub.L. 104-201, § 616\(a\)\(3\)\(C\)\(i\)](#), substituted "uniformed service" for "Department of Defense".

[Pub.L. 104-201, § 616\(a\)\(3\)\(C\)\(ii\)](#), substituted "Secretary concerned" for "Secretary of Defense".

Subsec. (d). [Pub.L. 104-201, § 616\(b\)\(1\)](#), substituted "the jurisdiction of the Secretary," for "his jurisdiction and".

[Pub.L. 104-201, § 616\(b\)\(2\)](#), added ", 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", before the period at the end of the subsection.

Effective and Applicability Provisions

2002 Acts. Amendments by [Pub.L. 107-296, § 1704](#), effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see [Pub.L. 107-296, § 1704\(g\)](#), set out as an Effective and Applicability Provisions note under [10 U.S.C.A. § 101](#).

1999 Acts. Section 625(b) of [Pub.L. 106-65](#) 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."

1996 Acts. Section 616(c) of [Pub.L. 104-201](#) provided that: "The amendments made by this section [amending subsecs. (a) and (d) of this section] shall take effect on October 1, 1996, and apply with respect to months beginning on or after such date."

1986 Acts. Section 634(b) of [Pub.L. 99-661](#) provided that: "Section 316 of title 37, United States Code, as added by subsection (a) [this section], 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."

LIBRARY REFERENCES

American Digest System

[Armed Services](#)  [13.1\(7\)](#), [23.1\(2\)](#).

Key Number System Topic No. [34](#).

37 U.S.C.A. § 316, 37 USCA § 316

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