MILITARY COMPENSATION BACKGROUND PAPERS

Compensation Elements
and
Related Manpower Cost Items

Their Purposes and Legislative Backgrounds

EIGHTH EDITION

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Introduction to the Eighth Edition

The extended nature of the wars in Iraq and Afghanistan have brought significant changes to military operations and desired force structure. Ongoing operations in these theaters have increased the frequency and duration of deployments of the military, especially in certain high-demand communities. Reserve components are now an operational force and an integral part of the nation's defense strategy. Their transformation from a strategic to an operational force has significantly reduced the demands and stress on the active components.

The requirements of warfare are continuously changing. The massive manpower needs and heavy armaments of the Cold War era have been replaced by precision weapons, drones, small combat units working with locals, an increased need for security and reaction forces, civil affairs specialists, linguists, and, in general, a more mobile force. Adapting to these changed manpower demands is difficult, and transitioning to new requirements can be costly.

Special and incentive pays are one of the important tools available to military planners to adapt to changing operational environments and, consequently, play an important role in personnel management. They allow the military to be agile and adaptable by providing incentives to reenlist, retrain, and volunteer for arduous and dangerous duty. With special and incentive pays, the services can selectively manage the force, within limits prescribed by Congress.

Included in these special and incentive pays is authorization to provide bonuses for such purposes as enlistment, accession, continuation, and skill conversion. Bonuses are market-driven and respond to changing conditions of demand and supply. These bonuses have been critical to maintaining reenlistment rates in the face of increased frequency and length of deployments.

The continuing conflict has prompted substantial changes in military compensation. New legislation allows the services increased flexibility in the amount of pays and bonuses and the ability to add new pays within budgetary requirements. New or increased benefits have been provided to military members in the Post 9/11 GI Bill and the Servicemembers' Civil Relief Act. Military pay has increased, and Congress has continued to pass pay raises, which have increased military pay beyond the 70th percentile of civilian pay. Congress has also enacted sweeping changes to the military retirement in the Blended Retirement System. This new system will combine the defined benefit of the existing retirement system, albeit with a lower multiplier, with government automatic and matching contributions to the Thrift Savings Plan. At this time, the Department is in the beginning stages of educating the force to begin to implement the Blended Retirement System. The legislative changes for these new and existing elements of military compensation are detailed in the ensuing chapters.

Alice Buchalter, Bailey Cahall, Malinda Goodrich, Marieke Lewis Brock, Patrick Miller, Ramón Miró, Catherine Schwartzstein, and Ahmed Zaied of the Library of Congress prepared this edition of the *Military Compensation Background Papers*. Draft versions of the component chapters were circulated to the staffs of the Office of the Secretary of Defense and, as appropriate, to the military services for their review and comment. Tim Fowlkes, Bill Dougherty, Andrew Corso, CDR Derek Vestal, Tom Liuzzo, LTC Sam Kan, LTC David Dulaney, and Steve Galing of the Directorate of Compensation did the bulk of the reviewing, and their contribution to this project is appreciated.

Military compensation can be compared to a jigsaw puzzle—there are many pieces, and it is not always clear how the pieces fit together. The *Military Compensation Background Papers* provides the background that allows the pieces to be assembled into a picture that has some meaning.

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Preface to the Table of Contents

A Note on the Organization of the Third and Subsequent Editions

The organization of the third and subsequent editions of *Military Compensation Background Papers: Compensation Elements and Related Manpower Cost Items—Their Purposes and Legislative Backgrounds* has been changed from that of the first two editions, in that pays that are functionally similar or that have a common legislative heritage are physically grouped together.[1] This regrouping has had the incidental effect of emphasizing the common concepts and principles, as articulated in Chapter I of this edition, which underlie the various compensation elements and manpower cost items that have been grouped together.

In thus regrouping and reorganizing the third and subsequent editions of *Military Compensation Background Papers*, the various compensation elements and manpower cost items that make up the military compensation system considered as a whole have been subsumed under four major headings identified by Chapters II through V, respectively. Thus, Chapter II covers all forms of "pay" for active- and inactive-duty military service; Chapter III covers all forms of post-service compensation, including separation payments as well as retired and retainer pay and other benefits; Chapter IV covers benefits supporting the active- and inactive-duty forces; and Chapter V covers the category of miscellaneous payments to active- and inactive-duty forces that are, for present purposes, referred to as "manpower-related cost items." Chapter I provides an overview of the military compensation system as a whole, emphasizing the principles and concepts that underlie and inform the system and give it substance and cohesion.

Each of the major categories covered by Chapters II through V is in turn broken down into further groupings and subgroupings of compensation elements and manpower cost items. For example, Chapter II.B. covers the four elements of military compensation that are subsumed under the heading of "regular military compensation." These four elements—namely, basic pay, basic allowance for housing, basic allowance for subsistence, and federal income tax advantage—are, in turn, each covered by a separate subsection. Each of these subsections is designated by a number that reflects its grouping in Chapter II.B. Thus, Chapter II.B.1. is entitled "Basic Pay"; Chapter II.B.2., "Basic Allowance for Housing"; Chapter II.B.3., "Basic Allowance for Subsistence"; and Chapter II.B.4., "Federal Income Tax Advantage." In a similar vein, Chapter II.C. covers compensation for non-regular service; Chapter II.D. covers special and incentive pays; and Chapter II.E. covers attraction and retention pays. As was true of Chapter II.B., Chapters II.C., II.D., and II.E. also are broken down into finer groupings. Chapter II.D.l., for example, covers combat and hazardous duty incentive pays; II.D.2. covers aviation-related pays; II.D.3., submarine and naval pays; and II.D.4., medical hazardous duty pays. Chapter II.D.l. is itself further broken down into two paragraphs—paragraphs a and b, which cover, respectively, general combat and hazardous duty incentive pays, on the one hand, and aviation pays, on the other hand. In keeping with the organizational principles previously set out, Chapter II.D.1.a.(1) is titled "Hostile Fire Pay," Chapter II.D.1.a.(2), "Demolition Duty Pay," and so forth. This organizational principle is maintained throughout the third and subsequent editions of *Military Compensation Background Papers.*

In addition to regrouping the various sections,—at least to some extent—the third and subsequent editions of *Military Compensation Background Papers* differ in one other respect from prior editions in that a number of short overview chapters have been added to provide summary information with respect to the different elements of military compensation that have been grouped under a particular heading.

[1] In most cases, the grouping of one element of compensation with another can be easily and persuasively defended. In some cases, however, the grouping of one element with another has been more arbitrary, resulting from a felt need to impose structure and coherence on a subject that is not always well-structured or coherent. The reader's indulgence is solicited in those cases where the grouping chosen offends the reader's sensibilities.

Thus, for instance, an overview chapter (Chapter II.B.) has been added to introduce the various elements of military compensation grouped under the general heading of "regular military compensation." In the case of this particular overview chapter, a short history of the derivation of the concept of "regular military compensation" is set out, together with statistical data covering all of the elements of military compensation subsumed under the "regular military compensation" heading. Similar overview chapters are provided for compensation for non-regular service (Chapter II.C.1.); for the special and incentive pays and the attraction and retention pays (Chapter II.D.); for the so-called "military estate program," consisting of retired and retainer pays, separation pays, and post-service benefits (Chapter III.A.); for supporting benefits (Chapter IV.A.); and for manpower-related cost items (Chapter V.A.).

Several appendices have been added to the third and subsequent editions of *Military Compensation Background Papers* to deal with a number of issues that, although not directly concerned with any one particular element of military compensation, have an impact, in one form or another, on military compensation generally. Thus, an appendix has been added detailing the background of the Department of Defense Military Retirement Fund and its relationship to active- and inactive-duty military compensation. Similar appendices have been added dealing with the background and impact of the Uniformed Services Former Spouses' Protection Act on military compensation; on the overall structures of the income-tax systems of the various states and their impacts on military compensation; and so forth.

In the sixth edition of *Military Compensation Background Papers*, the costs of the various types of military compensation, including pay, benefits, and bonuses, were listed in a separate volume, together with the numbers of armed forces personnel who have received such compensation. However, in seventh edition and this eighth edition, the cost tables have once again been incorporated into the main body of the text. They are referenced and inserted at the end of relevant chapters.

Resource constraints led to the decision not to update all of the health-care related sections in the 8th edition of *Military Compensation Background Papers*, although, there are some items that deal with health issues embedded in other sections were updated. The health-related information in the following sections has not been updated since the 7th edition:

- III.D.1. Retired Members Medical Care
- IV.B.4. Medical Care (Service Members and Dependents)
- Appendix II Uniformed Services Former Spouses Protection Act
- Appendix VII Special Pay and Other Benefits for Missing Persons, Prisoners of War (POWs) and Victims of Terrorism
- Appendix X CHAMPUS and TRICARE

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Pays, Allowances, Gratuities, and Benefits Summary

Title	Compensation Range	Initial Date	Last Change
Acceleration subject duty pay	$150 per month	1955	1998
Accession bonus for officer candidates	May not exceed $8,000	2006	2016
Assignment incentive pay	Up to $5,000 monthly; varies by service and assignment.	2003	2008
Aviation career continuation pay	Up to $35,000 per year	1980	2016
Aviation career incentive pay	Up to $1,000 per month	1974	2016
Basic allowance for housing (BAH)	Formula provided in 37 USC §403(b)	1878	2017
Basic allowance for subsistence	Formulas provided in 37 USC §402	1808	2017[1]
Basic pay	$1,479.30 to $15,583.20 per month	1790	2017
Career enlisted flyers incentive pay	$150 to $400 per month	1999	1999
Career sea duty	Maximum $750 per month	1835	2001
Career sea pay premium	Up to $350 per month	1980	2001
Chemical munitions exposure pay	$150 per month	1981	1998
Clothing basic replacement allowance	$266.40 to $460.80 per year; varies by service and gender	1949	2009
Combat pay (also known as hostile fire pay or imminent danger pay)	Permanent increase for imminent danger special pay to $225 and family separation allowance to $250	1952	2005
Combat-related rehabilitation pay	Replaced by pay and allowance continuation	2006	2008
CONUS COLA	Varies with duty station and location of dependents	1995	2009
Critical skills retention bonus	Maximum total of $200,000 ($100,000 for reserves on active duty)	2001	2006
Dangerous organisms exposure pay	$150 per month	1981	1998
Death gratuity	$100,000	1908	2006
Deceleration subject duty pay	$150 per month	1955	1998
Demolition duty pay	$150 per month	1949	1998
Dental officers special pays		1967	2008
• Incentive pay	Up to $100,000 per year	2008	2008
• Variable special pay (Exp. 2018)	$3,000 to $12,000 per year	1985	1998
• Additional special pay (Exp. 2018)	$10,000 to $15,000 per year	1985	2008
• Board-certification pay	$2,500 to $6,000 per year	1985	1997
• Accession bonus	Up to $200,000	1997	2006
• Critical skills accession bonus	Up to $400,000	2007	2007
• Retention bonus	Up to $75,000 per year	2008	2008
• Retention bonus (multiyear)	Up to $50,000 per year	1998	2003
Dependency and indemnity compensation	$1,258 per month for surviving spouse plus additional amounts for dependent children	1956	2017
Disability retired pay	Up to 75% of basic pay at time of retirement for disability	1861	2008
Dislocation and departure allowance	2.5 months' BAH	1955	2009
Diving duty pay	Up to $240 (officers) and $340 (enlisted members) per month	1886	2000
Engineering and scientific career continuation pay	Up to $3,000 per year for each year of an extension agreement	1981	1986
Enlistment bonus	Up to $50,000	1791	2008
Enlistment referral bonus	Up to $2,000 (Repealed 2015)	2006	2015
Experimental stress duty pays	$150 per month	1955	1998

Pays, Allowances, Gratuities, and Benefits Summary

Title	Compensation Range	Initial Date	Last Change
Family separation allowance	FSA I: 1 month's BAH (without dependents rate)	1963	2009
	FSA II: $250 per month	1963	2005
Flight deck duty pay	$150 per month	1965	1998
Flight pay (crew member)	$150 to $250 per month	1913	1999
Flight pay (non-crew member)	$150 per month	1934	1998
Foreign language proficiency pay	Up to $12,000 per year	1986	2009
Glider duty pay	Authority terminated 1984	1944	1984
HALO parachute duty pay	$225 per month	1985	1998
Hardship duty pay	Up to $1,500 per month	1900	2008
Hazardous duty incentive pay for air weapons controller crew members (AWACS flight pay)	$150 to $350 per month	1981	1997
Health professions accession bonus	Up to $30,000 for each12-month period of obligated service	2008	2008
Health professions retention bonus	Up to $75,000 for each12-month period of obligated service	2008	2008
Health professions incentive pay	Up to $15,000 a year	2008	2008
Health professions board-certification pay	$6,000 per year	2008	2008
High-deployment allowance	$1,000 per month	2000	2004
High pressure chamber duty pay	$150 per month	1983	1998
Hostile fire pay (also known as combat pay or imminent danger pay)	$225 per month	1952	2005
Inactive-duty training pay	1/30th of a month's basic pay per unit training	1916	1996
Judge advocate continuation pay	Not to exceed $60,000	1999	1999
Leprosy duty pay	Authority terminated 1984	1949	1984
Low pressure chamber duty pay	$150 per month	1983	1998
Medical officers special pays		1947	2008
• Variable special pay (Exp. 2018)	$1,200 to $12,000 per year	1947	1990
• Additional special pay (Exp. 2018)	$15,000 per year	1947	1990
• Board-certification pay	$2,500 to $6,000 per year	1947	1990
• Incentive special pay	Up to $100,000 per year	1947	2008
• Retention bonus	Up to $75,000 for each year	1989	2008
• Critically short wartime specialty accession bonus	Up to $100,000 for each12-month period of obligated service	2005	2008
MOS conversion bonus	Maximum lump sum not to exceed $4,000 ($2,000 for reserves)	2004	2009
Nonphysician health-care providers special pay	Up to $15,000 per year	1991	2008
Nuclear career accession bonus	Up to $50,000 per year	1976	2015
Nuclear career annual incentive bonus	Up to $25,00 per year	1976	2008
Nuclear officer continuation pay	Up to $50,000 per year	1969	2015
Nuclear-trained and -qualified enlisted members	Up to $30,000 for a reenlistment	1972	2008
Nurses special pays		1989	2006
• Accession bonus for registered	Up to $30,000 for each 12-month	1989	2008

Pays, Allowances, Gratuities, and Benefits Summary

Title	Compensation Range	Initial Date	Last Change
nurses	period of obligated service		
• Incentive special pay for certified registered nurse anesthetists and nurses serving in other critical nursing specialties	Up to $15,000 for each 12-month period of obligated service	1989	2008
• Retention bonus for nurses	Up to $75,000 for each 12-month period of obligated service	2008	2008
• Special pay for board-certified nurses with post-baccalaureate degrees who are health-care providers	Up to $6,000 per year	1996	2008
• Critical skills accession bonus for persons enrolled in senior reserve officers' training corps obtaining nursing degrees	Up to $5,000	2006	2006
Operational submersible duty pay	$75 to $835 per month	1960	2003
Optometrists special pay		1971	2003
• Incentive pay	Up to $15,000 for a 12-month period	1971	2008
• Retention bonus	Up to $75,000 for each 12-month period of obligated service	1991	2009
Overseas cost of living adjustment	Varies by country	1942	2009
Overseas duty extension pay	Up to $80 per month, annual bonus not to exceed $2,000	1980	1998
Parachute duty pay	$150 per month	1941	1998
Pay and allowance continuation	All pay and allowances received at time of hospitalization for wound, injury, or illness sustained in a hostile-fire event for up to 12 months	2008	2008
Personal exposure pay (toxic pesticides, etc.)	$150 per month	1981	1998
Personal money allowance	Up to $500 to $4,000 per year for officers ($2,000 enlisted)	1922	2001
Pharmacists retention special pay	Up to $15,000 per year	2001	2008
Psychologists special pays		1987	2009
• Incentive pay	Up to $15,000 per year	1987	2008
• Retention bonus	Up to $75,000 for each 12-month period of obligated service	1987	2008
• Critically short wartime specialty accession bonus	Up to $400,000	2008	2008
Responsibility pay	$50 to $150 per month	1958	1992
Retired and retainer pay – High-36 System (nondisability)	Currently 2.5% x years of service (min 20) x monthly basic pay	1861	2000
Retired and retainer pay – Blended Retirement System (nondisability)	Effective 1/1/2018: 2.0% x years of service (min 20) x monthly basic pay	1861	2017
Selective reenlistment bonus (SRB)	Up to $30,000 for each 12-month period of obligated service	1795	2006
Separation pay (nondisability)	10% of product of years of active service and 12 times terminal monthly basic pay	1800	1994

Pays, Allowances, Gratuities, and Benefits Summary

Title	Compensation Range	Initial Date	Last Change
Servicemembers' Group Life Insurance (SGLI)	Up to $400,000 for survivors	1917	2005
Severance pay (disability)	Up to 2 years' basic pay at time of separation	1949	1994
Special duty assignment pay (formerly, proficiency pay)	Up to $600 per month	1958	2001
Special position allowance for certain Navy personnel	$400 to $5,200 per year	1946	1946
Special survivor indemnity allowance	Up to $310 per month	2009	2009
Special warfare officer extending period of active-duty pay	Up to $15,000 per 12-month period of service obligation	1999	1999
Submarine duty incentive pay	$75 to $835 per month	1901	2003
Surface warfare officer continuation pay	Not to exceed $50,000	2001	2001
Survivor Benefit Plan (SBP)	Up to 55% of retired or retainer pay	1953	2009
Thermal experiment subject pay	$150 per month	1957	1998
Toxic fuels and propellants exposure pay	$150 per month	1981	1998
Toxic pesticides exposure pay	$150 per month	1981	1998
Transfer between armed forces (incentive bonus)	Up to $10,000. Authority terminated 2018	2006	2018
Traumatic injury coverage (under SGLI)	$25,000 to $100,000	2005	2005
Veterinarians special pay (Expires 2018)	$100 per month	1953	1980

Note: The formula for officers was established in 1998, the one for enlisted members in 2001.

Chapter I
Overview of Military Compensation: Theory, Concepts, and Principles of Military Compensation

The first and second editions of this volume, *Military Compensation Background Papers: Compensation Elements and Related Manpower Cost Items—Their Purposes and Legislative Backgrounds*, demonstrated that the legislative history, annual cost, numbers of recipients, and various quantitative trends are generally well documented for essentially every item of military compensation. Neither those editions nor other substantive studies gave comparable analytic thought to the underlying principles and concepts that cause the whole structure of military compensation to cohere in a logical and self-reinforcing fashion. It was in part to remedy this deficiency that the President's memorandum to the Secretary of Defense of August 17, 1982, authorizing the Fifth Quadrennial Review of Military Compensation (QRMC), sought "[a] coherent and logical statement of the principles and concepts of military compensation in relation to national security objectives...."

In fact, the President's memorandum focused attention on the basic congressional mandate contained in 37 U.S.C. §1008(b) that each QRMC conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services."[1] Since 37 U.S.C. §1008(a) already provides for annual presidential review of the short-term "adequacy" of military compensation, the need for a periodic review of the long-term underlying principles and concepts is self-evident—particularly in an era typified by rapid technological developments and changing battlefield tactics. But before one can review "principles and concepts," those principles and concepts must be articulated and explicitly stated—hence this "overview." It restates the principles and concepts developed by Peter K. Ogloblin and later elaborated by the Fifth QRMC.[2]

A. CONCEPTS

Any military compensation system should be based on certain underlying principles that, in the aggregate, comprise its theory. That theory necessarily must be consistent with and reflect the fundamental concepts and principles of our nation's form of government. Compensation should be designed to foster and maintain the concept of the profession of arms as a dignified, respected, sought after, and honorable career. The emotional and spiritual satisfactions gained from the dedicated performance of uniformed service should be coupled with compensation sufficient for an individual member to maintain a standard of living commensurate with the carrying out of responsibilities that directly affect the security of the nation. Without basic patriotism on the part of its members, however, there could be no armed forces. At the same time, in peacetime, patriotism by itself is not an adequate motivation for a service career.

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[1] Title 37, United States Code, "Pay and Allowances of the Uniformed Services," is the main source of statutory authority for active- and inactive-duty compensation for members of the uniformed services. For the purposes of Title 37, United States Code, the term "uniformed services" refers not only to the traditional armed forces, i.e., the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard [see 37 U.S.C. §101(4)], but to the National Oceanic and Atmospheric Administration and the Public Health Service as well: The term "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service [37 U.S.C. §101(3)].

[2] We have not followed totally the statement of principles and concepts elaborated by the Fifth QRMC because, since the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. No. 99-433, 100 Stat. 992 (1986), the service-specific emphasis is not germane. See, e.g., Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. No. 99-433, *id*., §3, 100 Stat. 993–94. Instead, the statement of principles and concepts contained in the report of the Fifth QRMC has been modified according to the changes mandated by that act.

Lawyers, comptrollers, statisticians, and military compensation specialists have performed considerable research on individual military compensation items. As a result, the congressional purpose, legislative history, annual cost, numbers of recipients, and various quantitative trends of compensation are well documented. What has not received comparable research attention and thought are the underlying concepts and principles that cause the structure of military compensation to cohere in a logical and self-reinforcing fashion. In short, the relationships between the individual components of compensation and their systemic interrelationships as a coherent structure remain largely implicit rather than explicit. Virtually every aspect of military activity has explicit doctrines, principles, and practices embodied in field manuals, technical manuals, and various joint publications. Military compensation is noteworthy in its lack of such an explicit intellectual foundation.

It is prudent to clarify a number of points when dealing with principles. First, principles are value judgments stating what ought to be done and what course of procedure ought to be followed. Second, principles refer to the most basic propositions of a system and, as such, are to be distinguished from the specific policies used to apply them in specific situations. Policies, whether statutory or administrative, are contingent on the vagaries of time, place, and national mood. Third, the prescriptive nature of principles can often lead to a category of "sub-principles," more enduring than policies but less basic than principles. The various structural propositions deriving from basic principles are of this nature. An example is that basic military compensation levels should be comparable to those of the American economy, while special and incentive pays should be competitive, both internally and externally, with manning supply and demand in specific duties. Fourth, an important by-product of explicit principles is the stability of the system affected and the capability of coherent long-term planning.

It is basic to individual morale as well. Secretary Robert A. Lovett recognized this in 1952 when he wrote to the Strauss Commission concerning compensation.

> Only a carefully considered answer will enhance or ensure the possibility of a permanent solution, and too much emphasis cannot be placed on permanency of solution because of its importance and impact on service morale. As you know, the effect on morale is most adverse when individuals who have entered service with expectancy of a permanent rate of compensation are constantly exposed to unfavorable ex post facto adjustments.[3]

Fifth, a statement of principles has an educational by-product, making the whole system more understandable both to the defense leadership and to the forces under their command. It ties together various disparate elements into a consistent, logical structure. It is not necessary that the system as a whole be simple, only that its logical exposition be understandable and credible. No system as large and complex as military compensation will ever be simple, any more than that of any other large organization. With these matters in mind, the following basic principles and sub-principles have been developed.

B. PRINCIPLES

1. MANPOWER/COMPENSATION INTERRELATIONSHIP. The first principle underlying the basic philosophy of military compensation is that it must be an integral part of the overall system by which military manpower is managed. Compensation, by the very nature of its basic purpose, must support defense manpower policies that, in turn, support the military, strategic, and operational plans of this nation. If they do not, then manpower imbalances, deteriorating unit cohesion and integrity, poor morale, and a general degradation of discipline and motivation are likely to ensue. This in turn can frustrate the successful accomplishment of strategic and operational plans in the field, and thus negate our foreign-policy objectives. Compensation for members of the armed forces, therefore, must be synchronized with the rest of the military manpower system and not be treated as an isolated part of the

[3] "Memorandum for the Chairman, Commission on Incentive, Hazardous Duty, and Special Pays, Robert A. Lovett, Secretary of Defense, October 9, 1952," in U.S. Senate, Committee on Armed Services, *Differential Pays for the Armed Services of the United States* (Washington, DC: GPO, March 1953), 37.

national labor market. This basic principle of compensation was implied in the presidential memorandum establishing the Fifth QRMC in which it was understood that military compensation is and should remain an integral part of military activities. The importance of this principle can be appreciated when reviewing the suggestions of various critics of military compensation. These critics view military compensation as an autonomous system, unrelated to other military operations, and thus a logical candidate for the supply-and-demand labor-market analysis often applied to the private sector by the same critics.

2. COMPATIBILITY WITH TECHNOLOGY AND TACTICS. Military compensation should reflect the realities of the high-level technology employed by the armed forces and the combat tactics of today's battlefield environment. This refers to the inevitable time lag between the realities of the battlefield and the systems, such as compensation, designed to support the combat forces. The effect of changing combat tactics (often resulting from the characteristics of new weapons) is most noticeable in certain special and incentive pays (e.g., aviation pays), but it permeates military compensation. The introduction of newer, high-performance weapons, which had an effect on combat tactics, was the reason why long-term reviews of military compensation were instituted in the first place. The importance of keeping military compensation in synchronization with changing combat tactics is a cardinal precept that cannot be overstressed.

3. EQUITY. The third principle is that of equity, in the sense of "fairness." Few things are more important for morale than that service members believe they are being treated as fairly as possible, and, conversely, few things undermine morale more than a sense of unfair treatment. This principle requires that all service members be allowed to compete equally for pay and promotion according to their own abilities. This principle applies equally to the regular, reserve, and retired forces, whose combined strength constitutes the backbone of our national security. This principle also deals with the concept of equal pay for substantially equal work under the same general working conditions. This aspect of the equity principle establishes the basis for the two important sub-principles of pay: comparability and competitiveness.

a. Comparability. The basis for determining the appropriate pay levels for the service-specific aspects of the compensation of the uniformed services should be comparability with the American economy. This addresses the question: "How much should service members be paid?" by answering, "About the same as their approximate counterparts (in terms of function and responsibility) are paid in the American economy." The specific items referred to here are basic pay, basic-pay-related items, the allowances, and benefits. This also responds to the main reason articulated in international law pertaining to why service members wear distinguishing uniforms, which is to differentiate between armed combatants and noncombatants. This distinction implies that the major difference is that members of the armed forces are legally liable to armed combat. This is their distinguishing characteristic, and whatever specialization for specific duties a member of an armed force may have is secondary to the primary function of armed combat. Hence, the fact that basic pay rates are the same for each grade and longevity step recognizes this basic function.

Much of the controversy over the comparability principle has arisen because of the different meanings attached to the word and to the perception that comparability means "sameness" or "exactness." Many consider that comparability implies that military duties are exactly the same as civilian jobs and that civilians use and intend the word to mean equal or identical pay. Including the word "substantially" in the definition "equal pay for substantially equal work" recognizes that there are different conditions of employment between any two organizations, and that it would be fruitless to attempt to locate exactly equal work for comparison with federal civilian workers. The British recognize that an exact comparison between military and civilian jobs is unnecessary as a condition for using that comparison in setting pay levels for their service members. Quoting from a report on their pay system:

> Our terms of reference require us to "have regard for the need for the pay of the Armed Forces to be *broadly comparable* with pay levels in civilian life." Pay comparability is a

> key part of our remit and an important strand of evidence to ensure that the Armed Forces are appropriately positioned against the market, and are able to recruit and retain the personnel they require. Given the nature of the remit group, it is not always possible to make direct comparisons between military and civilian jobs. Hence, ours is not a mechanistic process, and we are required to use our judgement when analyzing the evidence.[4]

b. Competitiveness. Compensation competitiveness is needed to ensure the adequate manning of certain military specialties. This sub-principle applies to special and incentive pays, particularly in peacetime. "Competitiveness" refers to both external (i.e., private-market pressures) and internal competition (i.e., those military duties requiring volunteer manning because of their hazardous, arduous, uncomfortable, long training lead-time, and/or high training investment characteristics). Competitiveness includes those bonuses and special pays that can and will be discontinued during major mobilization and wartime. This is possible because the competitiveness for attraction would likely be negated by a draft, and competitiveness for retention is nullified through "stop-loss" and retirement-denial policies. During peacetime, such special and incentive pays are needed for specific duties that are in high demand in the economy, that are inherently more dangerous than most peacetime duties, or that are just uncomfortable and unattractive.

4. EFFECTIVENESS IN PEACE AND WAR. The fourth guiding principle for the military compensation system is that it must operate effectively in both peace and war. This principle suggests that one military compensation system is required because there will be no time to switch systems in wartime (even if that course were theoretically desirable). Further, any system must be flexible enough to permit the entry and departure in both peace and war situations of reservists and retirees in a way that will not confuse their promotion patterns, retirement credit, and various related compensation elements. This has significant implications for any proposal to adopt a salary system, for example. Any military compensation system must be designed to allow for rapid and smooth expansions and contractions of the force. Military personnel should be allowed to concentrate on their duties without having to adapt to changes in a system that is supposed to support them, not hinder them.

In line with this latter principle, the military compensation system should accommodate mobilization planning, promotion patterns, force levels and training lead-times of the Department of Defense. Many proposals for the "reform" of the compensation system ignore mobilization plans; and, indeed, the existing structure does so to some degree by requiring congressional action to terminate or install certain items in the event of mobilization or war. Such times are the least propitious moments to effect the needed changes in a thoughtful manner. It would be far preferable to enact provisions that allow the necessary steps to be taken administratively.

5. FLEXIBILITY. The fifth principle underlying the overall compensation system is that it ought to be designed in a way to adjust quickly to changing conditions of combat tactics, technology, and manpower supply and demand. Here again, there are several sub-principles involved. An effective system cannot be designed without a reasonable specification of the force size and manpower profile that the system is to support; i.e., a definitive statement of manpower requirements is needed which has as its foundation reasonable standards.

a. Efficiency. The sub-principle of efficiency deals with the concept of economic efficiency. The amount or level of military compensation should be no higher or lower than necessary to fulfill the basic objective of attracting, retaining, and motivating the kinds and numbers of service personnel needed for the active and reserve forces of the United States.

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[4] *Armed Forces' Pay Review Body: Thirty-Eighth Report—2009* (London: Crown Copyright, March 2009), 17, http://wwwome.uk.com/downloads/AFPRB%2038th%20Report%202009.pdf.

b. Supply and Demand. Differing manpower supply conditions (skill and experience profiles) and demand conditions (desired force profiles) among the uniformed services, for both the regular and the reserve forces, require a system with flexibility and a broad pricing base to satisfy the varying needs of different military situations. Special and incentive pays, which are the basic compensation tools employed to satisfy this principle, are, if nonfunctional, inconsistent with efficient compensation practices.

c. Linkage of Elements ("Drag-Alongs"). When a rigid linkage of compensation elements exists (as whenever one element, such as basic pay, changes, it automatically causes a similar change in a half-dozen or more other compensation elements), it generally creates inefficiencies because of differing needs served by each element. Such linkages (often called "drag-alongs") should not be a part of the basic compensation system design, unless the respective elements are clearly driven by the same criterion.

d. Rapid and Equitable Adjustments. The compensation system should have a rapid and equitable adjustment mechanism to reflect changes in the national economy. Service members must receive sufficient compensation to enable them to establish standards of living that will allow the simultaneous discharge of their responsibilities to their country and to their families. The compensation system of the uniformed services should, therefore, be related to the state of the national economy so that its members may participate in the gradual rise in the standard of living.

6. MOTIVATIONAL ASPECTS. The sixth, and last, principle relates to the need to incorporate into the system a relationship between compensation and the effort, or contribution, required of the individual. The basic system, as well as any special or supplemental aspects, should be designed to encourage meritorious performance and advancement to higher responsibilities. There are several associated sub-principles:

a. Institutional Benefits. The overall institutional-benefits component of the military compensation system should be awarded according to the military value of the member to the service. This sub-principle provides a guide to the recipients in regard to approximate levels of benefits. Many benefits, however, are (and should be) automatic in their entitlement, such as dependency and indemnity compensation, death gratuity, and the group insurance programs. Nonetheless, the criterion of military value, including the possibility of mobilization or recall to active duty in times of national emergency, should govern the eligibility for and level of benefits to the various categories of beneficiaries.

b. Distinctiveness. The overall compensation system must reflect the distinctive characteristics of serving in the armed forces. The very essence of this distinctiveness is that members of the armed forces must be able to engage in mortal combat and put their lives in jeopardy. The services can scarcely be manned with members possessing the alertness and vitality needed to be able to provide the leadership necessary to win wars unless service members are compelled to leave active service at reasonable ages or sooner if no longer sufficiently competitive. This requires a system of severance and retirement compensation that is designed to meet the many problems of superannuation. The theory underlying the solution to this problem, which is not only one of age but also of other factors affecting ability and competence, must make sense to the intelligent citizen who finally pays the cost. This aspect of the compensation system should be viewed by most rational people as being "good business" despite the associated cost. The compensation sub-principles that underlie the military retirement system are as follows:

(1) The system should be structured to meet legitimate defense requirements, such as recall to active duty of some or all retired members, in support of our national-security objectives.

(2) The system should support and complement force-management requirements (e.g., youth, vigor, and career-development opportunities) of the active and reserve components of the armed forces.

(3) The system should be integrated into the military compensation system and be structured to meet an income-replacement function as well as an income-maintenance function acceptable to the nation.

These are the six principles of uniformed services compensation. Together, they form the logical basis that should set the standards for assessing the effectiveness of the military compensation system.

Chapter II.A.
Overview of Compensation for Military Service: Active- and Inactive-Duty Compensation

For its defense manpower requirements, the United States relies on three major categories of military personnel—active-duty personnel, inactive-duty personnel, and retired personnel. Roughly speaking, active-duty personnel include all those members of the Army, Navy, Air Force, Marine Corps, and Coast Guard who are on active duty[1] every day and are at all times subject to the Uniform Code of Military Justice.[2] For present purposes, inactive-duty personnel include all those members of the reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, as well as all members of the Army National Guard and Air National Guard, who are not on full-time "active duty" or "full-time National Guard duty" as those terms are defined at 10 U.S.C. §101(d)(1) and (d)(5), respectively.[3] [4] Retired personnel include all former active-duty and inactive-duty personnel who have an entitlement to retired or retainer pay under Title 10, United States Code.[5] The active-duty and inactive-duty forces of the United States provide services to the federal and state governments and are, by virtue of providing such services, authorized "compensation" under Titles 10 and 37 of the United States Code. The compensation entitlements of active-duty personnel are collectively referred to in *Military Compensation Background Papers: Compensation Elements and Related Manpower Cost Items—Their Purposes and Legislative Backgrounds* as "active-duty compensation," whereas the compensation entitlements of inactive-duty personnel are collectively referred to as "inactive-duty compensation."

> All personnel authorized active duty compensation receive the three main elements of military compensation subsumed under the heading "regular military compensation" (RMC)—namely, basic pay, basic allowance for quarters (or quarters in kind), and basic allowance for subsistence (or subsistence in kind). Such personnel may also receive other elements of military compensation—whether pays or allowances of one sort or another—depending on the nature of their duty assignment, their military specialty, where they are stationed, their conditions of service, and so forth. They may, for instance, be authorized increased housing allowances if they are stationed in a high-housing-cost area of the United States and are not assigned to government quarters. In a similar vein, they may be authorized one or more forms of pay subsumed under the heading of "special and

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[1] The term "active duty" is defined at 10 U.S.C. §101(d)(1) to mean:

> ... full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

[2] The Uniform Code of Military Justice is codified as Chapter 47 of Title 10, United States Code, 10 U.S.C. §§801–946.

[3] See footnote 1, above, for a definition of the term "active duty" as set out at 10 U.S.C. §101(d)(1). The term "full-time National Guard duty" is defined at 10 U.S.C. §101(d)(5) as follows:

> ... training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 [United States Code] for which the member is authorized pay from the United States or for which the member has waived pay from the United States.

[4] Although the term "inactive duty" is not formally defined in Title 10, United States Code, the term "inactive-duty training" is defined at 10 U.S.C. §101(d)(7). This definition is quoted in full at footnote 1 to Chapter II.C.1., "Overview of Compensation for Non-Regular Service: Reserve Components Pay," below.

[5] As used here, the term "entitlement" does not necessarily imply that a person is actually receiving retired or retainer pay. Former members of the inactive-duty forces may, for instance, be authorized retired pay for their service in the reserve components of the armed forces, although they may not actually receive such pay until they reach 60 years of age. See, e.g., Chapter III.B.2., "Retired Pay for Non-Regular Service," below.

> incentive pays" or "attraction and retention pays." Typically, entitlement to these pays turns on having special educational or training qualifications or on being assigned to military duty for which such special or incentive pays are otherwise authorized.[6]

Inactive-duty personnel, on the other hand, are authorized inactive-duty compensation for the performance of inactive-duty training. They may also, under some conditions, be authorized special and incentive pays or attraction and retention pays for the performance of inactive-duty training. When on annual training duty, they are authorized active-duty compensation.

Chapter II of *Military Compensation Background Papers* sets out the active-duty and inactive-duty compensation entitlements of active-duty and inactive-duty personnel. The basic compensation entitlements of active-duty personnel are covered in Chapter II.B., whereas the basic compensation entitlements of inactive-duty personnel are covered in Chapter II.C. Special and incentive pays and attraction and retention pays for both active-duty and inactive-duty personnel are covered in Chapter II.D. and Chapter II.E., respectively. Entitlements to retired and retainer pay of (former) active-duty and inactive-duty personnel are covered in Chapter III of *Military Compensation Background Papers*, below.

[6] *Military Compensation Background Papers*, 5th ed. (Washington, DC: GPO, September 1996), 15.

Chapter II.B.
Regular Military Compensation (RMC) and Basic Military Compensation (BMC)

The military compensation system consists of a wide variety of pays, allowances, and benefits. Based on the enumeration of pays, allowances, and benefits covered by this edition of *Military Compensation Background Papers: Compensation Elements and Related Manpower Cost Items—Their Purposes and Legislative Backgrounds*, there are more than 70 separate pays, allowances, or benefits of one sort or another that go to make up the military compensation system considered as a whole. Discounting the benefits component of the military compensation system, there are more than 40 separate pays and allowances. While the military compensation system considered as a whole thus consists of many separate pays and allowances, it is the rare member of the uniformed services who in practice ever becomes entitled to receive as many as seven or eight pays and allowances—even over the course of a full career. Even though no one member ever becomes entitled to receive very many separate pays and allowances, every member of the uniformed services, by virtue of being a member, automatically becomes entitled to receive three basic elements of military compensation—namely, basic pay, basic allowance for housing (or quarters in kind), and basic allowance for subsistence (or subsistence in kind).

The observation that every member of the uniformed services is entitled to receive these three basic elements of military compensation led the Gorham Commission in 1962 to develop the construct of "regular military compensation" as a rough yardstick to be used in comparing the compensation of members of the uniformed services to the compensation of civilian-sector employees.[1] When initially developed as a comparison tool, "regular military compensation"—sometimes also referred to as "RMC"—consisted of basic pay, basic allowance for quarters, and basic allowance for subsistence. Later, during the course of the First Quadrennial Review of Military Compensation, it was pointed out that members of the uniformed services did not have to pay income tax on any amounts they received—whether in cash or in kind—on account of quarters or subsistence, and it was concluded that, for the purpose of comparing military and civilian compensation, it would be appropriate to include in "regular military compensation" some additional amount to account for the non-taxability of the allowances for quarters and subsistence.[2] This additional amount came to be referred to as "federal income tax advantage." Conceptually, an individual service member's "tax advantage" is the added amount of taxable income the service member would have to receive in cash if the quarters and subsistence allowances were suddenly to become taxable in order for the service member to be as well off in after-tax income as under the existing system of taxable pay and non-taxable allowances.[3] Congress first gave formal recognition to the "regular military compensation" construct in 1974 when, in the Act of September 19, 1974, Pub. L. No. 93-419, 37 U.S.C. §101, 88 Stat. 1152 (1974), it added paragraph (25) to Section 101 of Title 37, United States Code. From the time Title 37, United States Code, was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), 37 U.S.C. §101 contained definitions of general applicability to Title 37. As added by the Act of September 19, 1974, Pub. L. No. 93-419, *id*., paragraph (25) of 37 U.S.C. §101 originally provided:

> "[R]egular compensation" or "regular military compensation (RMC)" means the total of the following elements that a member of a uniformed service accrues or receives, directly or indirectly, in cash or in kind every payday: basic pay, basic allowance for housing, basic allowance for subsistence; and Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax.

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[1] See discussion of the Gorham Commission in Appendix III.

[2] For a discussion of the reasons underlying the tax-free status of the basic allowances for housing and subsistence—as well as various other allowances—see Chapter II.B.4., "Federal Income Tax Advantage," below.

[3] For a discussion of the assumptions necessary to quantify this "added" or "additional amount" for an individual member of the uniformed services, see Chapter II.B.4., "Federal Income Tax Advantage," below.

In 1980 the statutory definition of "regular military compensation" was broadened to include the variable housing allowance and overseas housing allowance.[4] The basic allowance for housing replaced the basic allowance for quarters and variable housing allowance in 1998. As thus amended, the "regular military compensation" construct is incorporated in current Section 101(25) of Title 37, United States Code, 37 U.S.C. §101(25):

> "[R]egular compensation" or "regular military compensation (RMC)" means the total of the following elements that a member of a uniformed service accrues or receives, directly or indirectly, in cash or in kind every payday: basic pay, basic allowance for housing, basic allowance for subsistence; and Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax.

As previously indicated, the "regular military compensation" construct developed by the Gorham Commission was originally intended to provide a crude yardstick by which military compensation could be compared to civilian compensation. It soon grew, however, to have operational significance. From 1967 to 1973, the "regular military compensation" construct was used to set and adjust military basic pay rates. Increases in the average salary levels of federal General Schedule (Civil Service) employees were applied to "regular military compensation" to determine the percentage increase in basic pay rates necessary to make the two equal. The resulting percentage increase was applied to the basic pay rates of all military personnel. This adjustment mechanism was abandoned in 1974, and the "regular military compensation" construct is now used for the purpose for which it was originally intended—namely, to provide a rough basis for comparing military and civilian compensation rates.

After Congress's insertion of variable housing allowance and overseas housing allowance into the definition of "regular military compensation" in 1980, the RMC construct came to include certain pay elements not received by all members of the armed forces—namely, variable housing allowance (VHA) and overseas or "station" housing allowance (SHA), the receipt of which hinged upon being assigned to "high housing cost areas," either in the United States (VHA) or overseas (SHA). With the inclusion of pay elements not received by all members of the armed forces, it soon became apparent that RMC no longer could serve its original purpose as a rough yardstick for the comparison of military and civilian compensation levels. Accordingly, a new term, "basic military compensation," was adopted to characterize all those elements of military compensation received by every member of the armed forces. "Basic military compensation," or BMC, thus was the same as the pre-1980 definition of "regular military compensation"—namely, it included all the elements of "regular military compensation" except for variable housing allowance and overseas housing allowance.

Although Congress formally defined the term "regular military compensation" for the purposes of Title 37, United States Code, "Pay and Allowances of the Uniformed Services, at §101(25), the term "basic military compensation" has not been similarly defined. Accordingly, although "basic military compensation" is used as a rough measure of an individual service member's military compensation for comparison purposes, it has no statutory imprimatur.

The housing reform provisions of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1629 (1997), consolidated the overseas housing allowance into a single payment, eliminating the distinction between the separate housing allowance received by members

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[4] This amendment to the definition of "regular military compensation" was effected by the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §11, 94 Stat. 3359, 3368–3369 (1980). As explained in the relevant congressional report, this change in the definition of RMC was made to "insure that these [variable and station housing] allowances are included in the information on Regular Military Compensation presented to the Congress each year." See S. Rep. No. 96-1051 (Committee on Armed Services), at 8, accompanying H.R. 7626, 96th Cong., 2d sess. (1980). The Senate report noted, however, that the change in the definition "will not affect the pay received by any Service member," *id*. For further discussion of the reasons underlying this change in the definition of "regular military compensation," see Chapter II.B.3., "Basic Allowance for Housing," below.

stationed overseas and the basic allowance for quarters that all members received. Despite this change, in 2004 "basic military compensation" remained in use as a basis of quantifying and comparing the basic pay and allowances of members.

As indicated in the quoted material, "regular military compensation" as currently defined at 37 U.S.C. §101(25) includes the following elements:

Basic Pay;

Basic Allowance for Housing or Overseas Housing Allowance, depending on duty location;

Basic Allowance for Subsistence; and

Federal Income Tax Advantage.

These elements of military compensation are dealt with respectively in Chapter II.B.1, "Basic Pay," Chapter II.B.2., "Basic Allowance for Housing," Chapter II.B.3., "Basic Allowance for Subsistence," and Chapter II.B.4., "Federal Income Tax Advantage," below.

With respect to the concepts and principles of military compensation set out in Chapter I, above, "regular military compensation" exemplifies the principles of equity, insofar as that principle incorporates comparability of basic pay, effectiveness, and the support of the manpower/compensation interrelationship.

Chapter II.B.1.
Basic Pay

Legislative Authority: 37 U.S.C. §§203, 204, and 1009. See 37 U.S.C. §907.

Purpose: Basic pay is the primary means of compensating members of the armed forces for their service to the country. Except during periods of unauthorized absence, excess leave, and confinement after an enlistment has expired, every member is entitled to basic pay while on active duty. Basic pay is paid to individual members on a regular basis; the amount of basic pay to which a particular member is entitled depends on the member's pay grade and length of service.

Background: All active-duty members of the armed forces are entitled to one primary, or principal, form of pay as recompense or compensation for the military service they render to their country. This primary, or principal, form of pay—currently known as "basic pay"[1]—is in practice, at least for the vast majority of members of the armed forces, supplemented by a number of additional pays and allowances that are intended to address various specialized needs and requirements of the armed forces or to offset certain costs that members have to bear as a result of conditions of service.

The practice by which members of the armed forces have come to be entitled to one primary form of compensation that is supplemented by a number of additional pays and allowances that are either based on conditions of service or are paid to meet particular needs or serve particular purposes can be traced to resolutions of the Continental Congress and, shortly thereafter, to the earliest enactments of the Federal Congress. Thus, the Act of April 30, 1790, ch. 10, §§5–10, 1 Stat. 119, 120–21 (1790), for instance, provided funds for "pay" of the "troops"; additional pay for adjutants, quartermasters, and paymasters; "rations" for commissioned officers, non-commissioned officers, privates, and musicians; money in lieu of "forage" for specified commissioned officers; and "uniform clothing" for "every non-commissioned officer, private and musician."[2] In this same connection, see also, e.g., Act of March 3, 1791, ch. 28, §3, 1 Stat. 222 (1791) (raising additional troops for the United States and providing that they "shall receive the same pay and allowances ... as stipulated for the troops of the United States" in the Act of April 30, 1790, ch. 10, 1 Stat. 119 (1790); Act of March 5, 1792, ch. 9, §§7–10, 1 Stat. 241, 242 (1792) (establishing new, and higher, rates of pay but adopting the same allowances as theretofore in effect); Act of May 2, 1792, ch. 28, §4, 1 Stat. 264 (1792) (adopting the "same pay and allowances" for "militia employed in the service of the United States" as were payable to "the troops of the United States"); Act of March 27, 1794, ch. 12, §§6–8, 1 Stat. 350, 351 (1794) (establishing a "naval force" for the United States and providing for "pay and subsistence"—the "subsistence" consisting of a number of "rations," depending on grade—for commissioned and warrant officers and "pay" and "rations" for "petty officers, midshipmen, seamen, ordinary seamen and marines"); Act of May 9, 1794, ch. 24, §4, 1 Stat. 366 (1794) (raising and organizing a corps of "artillerists and engineers" and providing for their "pay and allowances"); Act of March 3, 1795, ch. 44, §§7–12, 1 Stat. 430, 430–31 (1795); Act of May 30, 1796, ch. 39, §§8–14, 1 Stat. 83, 484–85 (1796); and Act of March 2, 1799, ch. 27, §6, 1 Stat. 721, 722 (1799) (establishing medical departments of the Army and Navy and providing for "compensations" for members of those departments and additional "compensation for forage, rations, and ... expenses").

Although the components of this system—that is, the system of pay plus allowances—together with applicable rates—have changed from time to time, the system itself has been remarkably enduring. It has been

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[1] As indicated below, the one primary, or principal, form of pay to which all members of the armed forces are entitled has been known by a number of different names over the years. See footnote 6 and associated text, below.

[2] *Cf.*, e.g., Act of September 29, 1789, ch. 25, §2, Stat. 95, 96 (1789), providing "[t]hat the *pay and allowances* of the ….troops be the same as have been established by the United States in [Continental] Congress assembled, by their resolution of the twelfth of April, one thousand seven hundred eighty-five" (emphasis added). The Act of September 29, 1789, thus incorporated the first usage of the term "pay and allowances" as applied to the compensation of the armed forces of the United States after the convention of the First Congress following adoption of the Constitution.

the exclusive method by which enlisted personnel of the armed forces have been compensated since the earliest days of the republic; and with the exception of the period from July 1, 1870, through June 30, 1922, when a "salary" system was in effect for officers, it has also been the method by which officers have been compensated.

Although the original military compensation structure was quite straightforward, it soon became complicated, with a proliferation of special allowances, especially for officers. To clear up some of the complexity and confusion surrounding officers' compensation, the Army and Navy Appropriation Acts for 1871 (Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870), and Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §§3–4, 16 Stat. 321, 330–33 (1870)) prescribed annual "pay" rates for officers of the Army and Navy, respectively, which rates, in the case of Army officers, were provided to be "in full of all commutation of quarters, fuel, forage, servants' wages and clothing, longevity rations, and all allowances of every name and nature whatsoever," Army Appropriation Act of 1871, ch. 294, *id*., §24, 16 Stat. 320, and, in the case of Navy officers, were provided to be their "full and entire compensation" with "no additional allowance" being permitted "on any account whatever," Navy Appropriation Act of 1871, ch. 295, *id*., §4, 16 Stat. 332.[3] [4] The Army and Navy Appropriations Acts of 1871 did not include a mechanism for review, or adjustment, of the salary rates thus established, and but one major change was made to them (in 1908) in the 52 years of their existence. As a consequence, and in order both to respond to increased living costs and other changed circumstances and to remove the disparity in treatment as between officers who were, and those who were not, furnished "free" quarters, heat, and, later, electricity in kind, the absolute bar against allowances of "every name and nature," Army Appropriation Act of 1871, ch. 294, *id*., §24, 16 Stat. 320, was soon eased, and cash commutation of those items was authorized. By 1922, when separate pay and allowances were once again statutorily prescribed, the officers' salary system had, in practical effect, already reverted to a pay and allowances system.

Before 1922, separate pay legislation had been enacted—although pay rates were generally equivalent—for the Army and Navy.[5] Coast Guard pay was normally tied to that of the Navy, while Marine Corps pay was at times linked to that of the Navy and at other times to that of the Army. The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, 42 Stat. 625 (1922), was the first pay legislation that dealt with compensation for all the armed services. In addition to increasing rates of pay for members of the armed services, principally in response to higher living costs, the 1922 Act created a system under which officers of general or flag rank were entitled to "base pay" determined by rank, plus rental and subsistence allowances, whereas officers below general or flag rank were entitled to "base pay" at rates determined by "pay periods," plus rental and subsistence allowances.[6]

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[3] Despite the provision that the "pay" thus established was to be the "full and entire compensation" of affected officers and thus in lieu of all commutations of items normally furnished in kind, so that no commutation was to be made for such items when not in fact furnished in kind, the appropriations acts were not interpreted to prohibit the provision in kind of quarters, fuel, and forage, and these items continued to be furnished in kind to officers without charge. Indeed, the Army Appropriation Act of 1871 specifically provided that, notwithstanding the prohibition on commutation payments, "fuel, quarters, and forage in kind may be furnished to officers," Act of July 15, 1870, ch. 294, §24, 16 Stat. 315, 320 (1870), and the Navy Appropriation Act of 1871 provided for "allowing rations ... to officers" as well as commutation of rations when not provided in kind, Act of July 15, 1870, ch. 295, §4, 16 Stat. 320, 332–33 (1870).

[4] See also Revised Statutes §§1261, 1269, 1270, 1271, and 1272 (1878) concerning Army officers and Revised Statutes §§1556, 1558, 1578, and 1585 (1878) concerning Navy officers.

[5] For a good portion of the 19th century and the early years of the 20th century, Navy officers not assigned to sea duty received a lower rate of pay than officers assigned to sea duty, on the theory that the former were performing less than full duty and thus were entitled to only a part of the pay otherwise appropriate to their grades. See Chapter II.D.3.d., "Special Pay for Career Sea Duty," below.

[6] "Base pay" was the term used from 1922 to 1949 to denote the primary pay element in the compensation of military personnel. Before 1922, this primary pay was known variously as "pay proper," "pay of the troops," or simply "pay." The current term, "basic pay," was adopted in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §§201 and 202, 63 Stat. 802, 805–9 (1949).

"Pay periods" for this latter group of officers were, in turn, determined by a combination of rank and length of service. The "pay periods" construct was adopted to relieve the adverse financial impact of the post–World War I promotion slowdowns. Under this construct, it was not necessary for an officer to be promoted to advance to the next higher "period"; conversely, a promotion to the next higher rank did not necessarily entail an increase in pay and allowances. Enlisted members, on the other hand, were entitled to base pay determined by rank, and cash allowances in lieu of quarters and subsistence were authorized when those items were not furnished in kind. Officers were entitled to additive longevity pay equal to 5 percent of their base pay for each three years of service, up to a maximum of 30 years. Enlisted personnel received longevity credit by "permanent additions" to base pay. Navy and Coast Guard enlisted members were authorized a "permanent addition" equal to 10 percent of base pay after four years' service and to 5 percent for each additional four years, up to a maximum of 16 years; Army and Marine Corps enlisted members were entitled to a "permanent addition" equal to 5 percent of base pay for each four years of service, up to 20 years. The Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, 56 Stat. 359 (1942), made the method of computing enlisted longevity pay for enlisted personnel the same as that for officers, that is, 5 percent of base pay for each three years of service, up to a maximum of 30 years.[7]

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), revamped the military compensation structure to provide a pay and allowances system that was intended to be both equitable to military personnel as well as responsive to the needs of the United States in terms of attracting and retaining the numbers and types of personnel needed during the period following World War II. To that end, it replaced the "base pay" provisions of the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, 42 Stat. 625 (1922), including the "pay periods" overlay, with the present system of basic pay and allowances. Under the "Career Compensation" system adopted in the Career Compensation Act of 1949, ch. 681, *id*., the "basic pay" to which a member is entitled is determined by the member's pay grade and length of service. Special and incentive pays, allowances, and reimbursements, if any, are then added to the member's basic pay to arrive at the total "pay" the member is to receive.[8] Thus, the Career Compensation Act retained the underlying principle of a primary pay broadly supplemented by other pays and allowances—the two most important being quarters and subsistence allowances. In addition to denominating the primary pay element "basic pay," the act denominated the quarters allowance "basic allowance for quarters" and the subsistence allowance "basic allowance for subsistence."[9] Commissioned officers (other than commissioned warrant officers) were assigned to pay grades O-1 through O-8; warrant officers, to pay grades W-1 through W-4; and enlisted personnel, to pay grades E-1 through E-7. Rates of basic pay within each pay grade included incremental "longevity steps" to reflect length of service. Such "steps" ranged from a top step—that is, the "longevity step" for a particular pay grade after which additional increments in longevity did not result in additional increments to basic pay—of "Over 4" years of service for pay grade E-1 to a top step of "Over 30" years for pay grades W-2, W-3, W-4, O-6, O-7, and O-8.

The Act of May 20, 1958 (Uniformed Services Pay Act of 1958), Pub. L. No. 85-422, §1(1), 72 Stat. 122, 122–23 (1958), increased basic pay rates to make them more competitive and added pay grades O-9 and O-10 to the officer pay structure and pay grades E-8 and E-9 to the enlisted structure. The new officer pay grades recognized, for both active-duty and retired pay purposes, a grade distinction that had long existed in fact—namely, three- and four-star general and flag officers.[10] In addition to recognizing pay grades O-9 and

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[7] Compare Section 1 of the Pay Readjustment Act of 1942, ch. 413, *id*., 56 Stat. 359, with Section 9 of the act, *id.*, 56 Stat. 363.

[8] As used here, the term "pay" is intended to refer to the actual amount of money—gross, before deductions for taxes, etc.—a member receives each month on account of military service. It is not used in the sense in which "pay" is defined in 37 U.S.C. §101(21) as "includ[ing] basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but ... not ... allowances."

[9] Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-381, §301 (Basic Allowance for Subsistence) and §302 (Basic Allowance for Quarters), 63 Stat. 802, 812–13 (1949).

[10] The Career Incentive Act of 1955, Pub. L. No. 84-20, §2(3), 69 Stat. 18, 19 (1955), had amended Section 201 of the Career Compensation Act of 1949, Pub. L. No. 81-351, §201, 63 Stat. 802, 806–7 (1949), to provide that an officer

O-10 as new pay grades, the Uniformed Services Pay Act of 1958, *id*., §1(1), 72 Stat. 123, also provided that persons in pay grade O-10 serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, and Commandant of the Marine Corps would be entitled to a special rate of basic pay independent of years of service while serving in any of the named positions.[11] While being higher than the rate of basic pay for other officers serving in pay grade O-10 whose entitlement depended on years of service, the special rate of basic pay applicable to the specified positions also applied to the computation of retired pay. See, for example, Uniformed Services Pay Act of 1958, *id*., §6, 72 Stat. 129–30. The new enlisted pay grades were designed to provide additional incentives to encourage enlisted personnel and potential enlistees to undertake career enlisted service. The act also changed the longevity step configuration by precluding increases beyond the length-of-service point in each pay grade at which individuals were normally promoted, so as to maintain a closer relationship between performance and higher pay. As revised, the top longevity steps ranged from "Over 2" years of service for pay grade E-1 to "Over 26" years for pay grades W-3, O-6, O-7, O-8, O-9 and O-10 and "Over 30" for pay grade W-4.[12] To prevent members appointed to a commissioned grade after long enlisted service from having to accept a reduction in basic pay, and hence to prevent any disincentive to the acceptance of commissioned service, the act established a special category of basic pay for personnel in pay grades O-1 through O-3 who had more than four years of prior active enlisted service. This special category of pay differed from the normal pay progression for pay grades O-1, O-2, and O-3 in essence by extending the top longevity step for each of these pay grades beyond normal promotion points for officers without extensive prior enlisted service. The special category thus reflected the additional service time personnel in these special pay grades would be expected to have as a result of prior enlisted service before becoming eligible for promotion from one officer grade to the next.[13]

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serving on active duty in the grade of lieutenant general or vice admiral was entitled to receive an additional $100 per month in basic pay, in addition to the pay and allowances to which otherwise entitled under the Career Compensation Act, *id*., while so serving, and an officer serving in the grade of general or admiral was entitled to receive an additional $200 per month, although the amendment specifically provided that neither of these additions to basic pay could be taken into account in the computation of retired pay entitlements. Under Section 201 of the Career Compensation Act of 1949, *id*., prior to amendment by the Career Incentive Act of 1955 as set out in the preceding sentence, officers serving in the grade of lieutenant general, vice admiral, general, and admiral were merely entitled to the basic pay of an officer serving in pay grade O-8. The special increases effected by the Career Incentive Act of 1955 for officers serving in the grades of lieutenant general, vice admiral, general, and admiral were adopted in recognition of the "high ... leadership responsibilities" of the persons serving in these "key positions." S. Rep. No. 84-125 (Committee on Armed Services), at 11, accompanying H.R. 4720, 84th Cong., 1st sess. (1955).

[11] Entitlement to the same special rate of basic pay was extended to the Vice Chairman of the Joint Chiefs of Staff by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §1314(d)(3), 101 Stat. 1019, 1176 (1987). The reason for the extension of this special rate of basic pay to the Vice Chairman of the Joint Chiefs of Staff is not completely clear from the legislative history, although it probably derives from the amendments to Title 10, United States Code, made by the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. No. 99-433, §201, 100 Stat. 992, 1009 (1986), establishing a new 10 U.S.C. §154, which provided, inter alia, that the Vice Chairman of the Joint Chiefs of Staff holds the rank of general or admiral, as the case may be, and outranks all other officers of the armed forces except the Chairman of the Joint Chiefs of Staff. See 10 U.S.C. §154(f). Thus, the 1988/1989 National Defense Authorization Act had the effect of entitling the Vice Chairman of the Joint Chiefs of Staff to the same rate of basic pay as applicable to the Chiefs of Staff of the Army and Air Force, the Chief of Naval Operations, and the Commandant of the Marine Corps, all of whom the Vice Chairman outranked.

[12] After enactment of the Uniformed Services Pay Act of 1958, Pub. L. No. 85-422, *id.*, pay grade W-4 became the only pay grade with a top longevity step of "over 30" years of service. That state of affairs lasted, however, only until the pay raise adopted pursuant to Section 2 of the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §2, 77 Stat. 210, 210–11 (1963), when Congress provided that the top longevity step for warrant officers in pay grade W-4 would be the same "over 26" category applicable to all other military personnel.

[13] The general structure of the basic pay table—that is, with pay grades ranging from O-10 to O-1, O-3E to O-1E, W-4 to W-1, and E-9 to E-1, and longevity steps ranging from fewer than two years of service to more than 26—resulting from the Act of May 20, 1958 (Uniformed Services Pay Act of 1958), Pub. L. No. 85-422, 72 Stat. 122 (1958), has changed

little since 1958. Of the three changes to the basic pay table since that time, two have involved creation of new pay grades that apply to very few personnel and the third added a longevity step that also affects relatively few personnel.

The Act of December 16, 1967, Pub. L. No. 90-207, §1(1), 81 Stat. 649, 649–50 (1967), effectively adopted a new enlisted pay grade by providing a special rate of basic pay for the senior enlisted member of each of the military services—namely, the "Sergeant Major of the Army," the "Senior Enlisted Member of the Navy" (subsequently retitled the "Master Chief Petty Officer of the Navy"), the "Chief Master Sergeant of the Air Force," and the "Sergeant Major of the Marine Corps." The rate of basic pay adopted for the senior enlisted member of each of the services in the 1967 act was a single rate of basic pay that exceeded the highest rate of basic pay for a member in pay grade E-9 and was independent of years of service. The pay rate originally adopted was $150 higher than the rate of basic pay for a member in pay grade E-9 with more than 26 years of service, but with subsequent pay raises the differential has increased. The reason underlying adoption of this special rate of basic pay was explained by the Senate Armed Services Committee as follows:

> At the present time [1967] in the Army, Navy, Air Force, and Marine Corps there is one enlisted man who has been designated as the senior noncommissioned officer in each of the services. This noncommissioned officer is the principal enlisted adviser to the Chiefs of Staff of the Army and Air Force, Chief of Naval Operations, and the Commandant of the Marine Corps. For many years, the Marine Corps has designated such a position. It is relatively new, however, in the other services.

Under the existing arrangement, each senior noncommissioned officer receives the basic pay of an E-9 with the same years of service together with proficiency pay of $150 per month.

Under the bill, a special rate is proposed of $844.20 per month. This enlisted person will receive this pay while serving in this position regardless of years of service for pay purposes. The proficiency pay of $150 per month which has been received as an interim measure will be rescinded. As a result, the bill will not cause any increase in the total active-duty compensation for the senior noncommissioned officer.

In addition, there are other provisions of the bill which will entitle the senior noncommissioned officer to compute retired pay in accordance with the basic pay of the position even though the service member may not be in receipt of this particular rate of pay at the time of retirement. Such a provision is similar to that now in effect with respect to the Chiefs of Staff of the Army and Air Force, the Chief of Naval Operations, and the Commandant of the Marine Corps. See S. Rep. No. 90-808 (Committee on Armed Services), at 8, accompanying H.R. 13510, 90th Cong., 1st sess. (1967); *cf.* H.R. Rep. No. 90-787 (Committee on Armed Services), at 8, accompanying H.R. 13510, 90th Cong., 1st sess. (1967) ("This special rate is designed to recognize and reward appropriately the additional responsibilities of these new and important positions."). As the new rate of basic pay did not increase the amount of active-duty pay persons occupying the four specified positions were entitled to, the main effect of the provision was to allow affected personnel to have their retired or retainer pay computed on the new and higher pay base. (The Master Chief Petty Officer of the Coast Guard was authorized to receive this special rate of pay and the attendant retirement benefits by the Act of October 2, 1972, Pub. L. No. 92-455, §3 (basic pay) and §2 (retired pay), 86 Stat. 761 (1972).)

The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §1111(a), 105 Stat. 1290, 1491–1492 (1991), established a new warrant officer pay grade, "Chief Warrant Officer, W-5." In addition to authorizing the new pay grade, the 1992/1993 Defense Authorization Act provided special rates of basic pay and basic allowance for quarters, §1111(c), 105 Stat. 1491, and special and incentive pays, §1111(d), 105 Stat. 1492, for members appointed to the new pay grade "in order to provide an incentive for warrant officers to continue to serve their country and to recognize the highly complex and technical skills these individuals possess." See H.R. Rep. No. 102-311 (Committee of Conference), at 614, accompanying H.R. 2100, 102d Cong., 1st sess. (1991); see also H. R. Rep. No. 102-60 (Committee on Armed Services), at 241, accompanying H.R. 2100, 102d Cong., 1st sess. (1991) ("... establish the permanent grade of chief warrant officer, W-5, as an added promotion incentive to entice selected service members to remain on active duty as warrant officers.").

The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4402, 106 Stat. 2315, 2701–2702 (1992), effectively established a new longevity step of "over 24" years of service for members of the armed services in pay grades O-6, W-5, W-4, E-9, E-8, and E-7. As originally adopted by the 1993 Defense Authorization Act, this new longevity step for members in the identified pay grades was to be effective from January 1, 1993, through October 1, 1995. The National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §602, 107 Stat. 1547, 1678 (1993), however, provided for the "continuation" of the new longevity step indefinitely. As explained by the Senate

Apart from periodic but irregular increases, little of note happened to the basic structure of military compensation between 1958 and 1967. In the Act of December 16, 1967, Pub. L. No. 90-207, 81 Stat. 649 (1967), Congress adopted a new mechanism for adjusting basic pay rates. Section 8 of the 1967 Act, *id*., 81 Stat. 654–55, required that, whenever the general schedule of compensation for federal classified employees—i.e., Civil Service employees—was increased, a "comparable increase" was to be made to the basic pay of members of the uniformed services. The 1967 act was adopted contemporaneously with, and against the backdrop of, the Federal Salary Act of 1967, enacted as Title II of the Postal Revenue and Federal Salary Act of 1967, Pub. L. No. 90-206, Title II, §§201–25, 81 Stat. 613, 624–45 (1967), which required increases in General Schedule—so-called Civil Service—salaries in 1968 and 1969 to close the then-perceived gap between federal civilian and private-sector pays. For the uniformed services, the two acts in concert ensured an increase in basic pay rates in 1968 and 1969 without further congressional action, even if no presidential recommendations stemming from the 1967 Quadrennial Review of Military Compensation—the so-called First Quadrennial Review of Military Compensation,[14] which was then in process at the Department of Defense—were forthcoming, or if such recommendations, even though forwarded to Congress, were not adopted. In fact, no revision to the military compensation structure ever resulted from the First Quadrennial Review of Military Compensation, and the Act of December 16, 1967, Pub. L. No. 90-207, *id*., in conjunction with the Postal Revenue and Federal Salary Act of 1967, Pub. L. No. 90-206, *id*., resulted in a military–civilian pay adjustment linkage that remained in effect until fairly recently.[15]

The Act of December 16, 1967, Pub. L. No. 90-207, §8, 81 Stat. 649, 654–55 (1967), required that the "comparable increase" between civilian and military pay raises be determined by equating regular military compensation (RMC) to General Schedule salaries. RMC was, in turn, defined as basic pay, quarters and subsistence allowances (either in cash or in kind), and the "tax advantage" deriving from the non-taxable

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Armed Services Committee, the interim provision was originally adopted to "provide a temporary incentive for military personnel to voluntarily retire in lieu of facing involuntary selection for early retirement" under the expected defense drawdown following the end of the Cold War. See S. Rep. No. 102-352 (Committee on Armed Services), at 208, accompanying S. 3114, 102d Cong., 2d sess. (1992); *cf*., H.R. Rep. No. 102-966 (Committee of Conference), at 886, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). (Under the basic pay table in existence before enactment of the 1993 Defense Authorization Act, members in the affected pay grades received a longevity increase upon completion of 22 years of service and another longevity increase upon completion of 26 years of service. Under the new basic pay table, they are entitled to longevity increases upon completion of 22, 24, and 26 years of service. With the new longevity pay step, therefore, affected members completing 22 years of service need not make mental commitments to complete 26 years of service before receiving their last longevity pay increase to boost their retired or retainer pay entitlements. Presumably, the problem leading to adoption of this new longevity pay increase will gradually ease after the year 2006, when the retired or retainer pay entitlements of service members come more and more to be based on a "high three average". See, e.g., Chapter III.B.1 hereof, below, "Nondisability Retired and Retainer Pay".)

[14] The Act of August 21, 1965, Pub. L. No. 89-132, §2, 79 Stat. 545, 546–47 (1965), adopted a special provision, codified at 37 U.S.C. §1008, requiring the president to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system. Pursuant to Section 2(a) of the Act, *id*., as codified at 37 U.S.C. §1008(b), the first such review was to be undertaken "[w]henever the President considers it appropriate, but in no event later than January 1, 1967." In the House and Senate Reports on the bill, H.R. 9075, 89th Cong., 1st sess. (1965), the required presidential review was referred to as a "quadrennial review ... of military compensation." See H.R. Rep. No. 89-549 (Committee on Armed Services), at 1 and 50, and S. Rep. No. 89-544 (Committee on Armed Services), at 1, accompanying H.R. 9075, 89th Cong., 1st sess. (1965). The 10 reviews of military compensation that have been completed under the direction of 37 U.S.C. §1008(b) have been referred to, successively, as the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Quadrennial Review of Military Compensation, respectively. The First Quadrennial Review was convened in 1966, and the most recent to have been completed, the Tenth, in 2008.

[15] For a summary overview of the achievements of the First through the Tenth Quadrennial Reviews of Military Compensation, see Appendix III.

status of the allowances.[16] [17] The whole of the military increase so determined had to be implanted in basic pay, which at the time made up only about 75 percent of RMC. Thus, the percentage increase in basic pay needed to be greater than the percentage increase in civilian salaries to enable the RMC and General Schedule raises to be equivalent. For example, General Schedule rates were increased 4.5 percent effective October 1, 1967. To achieve a comparable percentage increase in RMC, it was necessary to increase basic pay by 5.6 percent.

The use of basic pay, quarters allowance, subsistence allowance, and tax advantage—the original RMC—as the base for determining the increase needed in military pay rates to maintain comparability with General Schedule pay rates had the effect of imputing an increase in all four of these elements of military compensation each time a comparable General Schedule increase occurred. However, concentrating the entire increase into basic pay caused the increase in the elements other than the so-called tax advantage to be implicit only.[18] As indicated in the preceding paragraph, it also required that the basic pay increase be inflated by the percentage necessary to absorb the implicit increase in the other RMC elements.

The Federal Pay Comparability Act of 1970, Pub. L. No. 91-656, 84 Stat. 1946 (1971), required that General Schedule rates be measured annually against rates of pay for the same levels of work in private enterprise and that federal compensation be adjusted by executive order as of October 1 each year (unless the President submitted an alternate plan to Congress by August 31 and neither house of Congress disapproved) by the percentage necessary to maintain comparability between the federal and private-enterprise rates. These

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[16] See 37 U.S.C. §101(25) as in existence before passage of the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, 94 Stat. 3368 (1980), concerning the original statutory definition of "Regular Military Compensation." (The original statutory definition of "regular military compensation" was incorporated as new paragraph (25) of 37 U.S.C. §101 by the Act of September 19, 1974, Pub. L. No. 93-419, §1, 88 Stat. 1152 (1974). The text of 37 U.S.C. §101(25) as added by the Act of September 19, 1974, Pub. L. No. 93-419, *id.*, is set out in full in the text preceding footnote 4 to Chapter II.B., "Regular Military Compensation (RMC) and Basic Military Compensation (BMC)," above. 37 U.S.C. §101 (25) was subsequently amended by the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §11, 94 Stat. 3359, 3368–3369 (1980), to include variable and station housing allowances in the "regular military compensation" construct. For the reasons underlying this amendment, and its effects on the military compensation system and the pay adjustment mechanism, see Chapter II.B., "Regular Military Compensation (RMC) and Basic Military Compensation (BMC)," above, as well as Chapter II.B.4., "Federal Income Tax Advantage," below; see, especially, footnote 4 and accompanying text to Chapter II.B., above, and footnote 25 to Chapter II.B.4., below.)

[17] "Tax advantage," so-called, is a construct peculiar to military compensation. Under the rationale of *Jones v. United States*, 60 Ct.Cl. 552 (1925), a tax case decided by the United States Court of Claims in 1925, and statutory provisions subsequently adopted by Congress in the Tax Reform Act of 1986, Pub. L. No. 99-514, §1168(a), 100 Stat. 2085, 2512 (1986), as Section 134 of the Internal Revenue Code of 1986, 26 U.S.C. §134, the allowances for quarters and subsistence are not subject to taxation under the Federal Internal Revenue Code. (More accurately, the allowances for quarters and subsistence—along with various other allowances and reimbursements not here in issue—are specifically excluded from the definition of "gross income" under Section 134 of the Internal Revenue Code of 1986, 26 U.S.C. §134, on the grounds that they are "qualified military benefits." With respect to the question how basic allowance for quarters and basic allowance for subsistence fall within the definition of Section 134 "qualified military benefits," see footnote 16 to Chapter II.B.4., "Federal Income Tax Advantage," below.) Conceptually, the "tax advantage" accruing to the benefit of any particular member of the armed forces may be measured by the additional taxable income the member would have to receive if quarters and subsistence allowances were suddenly to become subject to federal taxation in order to leave the service member with the same after-tax income as under the present system of taxable basic pay and nontaxable allowances for quarters and subsistence. For a discussion of *Jones v. United States*, Section 134 of the Internal Revenue Code of 1986, and the so-called "tax advantage" attributed to members of the armed services as a result of the non-taxability of these allowances, including various simplifying assumptions underlying the calculation of the "tax advantage" to be imputed to particular classes of individuals in the uniformed services, see Chapter II.B.4., "Federal Income Tax Advantage," below.

[18] While the "value" of the tax advantage accruing to any particular member increases whenever an increase in basic pay rates causes the member's RMC to increase enough to move the member into a higher RMC tax bracket, the entire amount of the tax advantage imputed to the member is implicit, inasmuch as the member never receives any part of this "advantage" as an express addition to take-home or pre-tax pay.

"automatic" adjustment provisions, together with the coupling of General Schedule and basic pay increases under the Act of December 16, 1967, Pub. L. No. 90-207, 81 Stat. 649 (1967), resulted in a systematic procedure for increasing basic pay rates which theretofore (with the exception of the raises of 1968 and 1969) had been solely dependent on congressional discretion.[19]

In the exercise of this discretion, Congress excluded enlisted members with fewer than two years of service from the general raises in basic pay awarded in 1955, 1958, 1963, and 1964; officers with fewer than two years of service were similarly, but less severely, treated during those same years. Starting in 1966, however, both groups began to receive across-the-board basic pay increases in the same percentage as other personnel, thereby enabling them to maintain their then-existing position relative to the previously more favorably treated personnel. To eliminate the lag created by the earlier years of exclusion, and to make entry pay rates more competitive in an all-volunteer force setting, the Act of September 28, 1971, Pub. L. No. 92-129, 85 Stat. 348 (1971), provided a substantial increase in basic pay rates for members with fewer than two years of service. A slight increase was also made in some pay grades for personnel with more than two years of service, so as to prevent the large increase in the "under two" rates from causing an undue compression between pay grades.

Experience proved that the military pay raise adjustment mechanism adopted under the Act of December 16, 1967, Pub. L. No. 90-207, §8, 81 Stat. 649, 654–55 (1967), was undesirable in some respects. Inflating basic pay rates to absorb the entire RMC increase resulted in a corresponding inflation in items linked to basic pay, such as various bonuses, drill pay, separation pay, and, particularly, retired and retainer pays. Moreover, raising quarters and subsistence allowances in an implicit rather than explicit way tended to obscure their relationship to the expenses they had originally been intended to defray, as well as, especially in the case of the quarters allowance, distorting the relationship between the value of government quarters to members assigned to such quarters and the amount of the quarters allowance they had to give up as a result of such assignment. Finally, increasing basic pay rates by a higher percentage than General Schedule rates created an inaccurate impression that military personnel were getting a bigger increase than their civilian counterparts in the federal government. Offsetting these disadvantages from the point of view of the government—at least in part—was the fact that, since all of any increase in regular military compensation was concentrated in the basic pay element, the whole of the pay increase immediately became subject to federal income tax.

While retaining the principle of military pay raises linked to Civil Service increases, the Act of September 19, 1974, Pub. L. No. 93-419, §4, 88 Stat. 1152, 1152–1153 (1974), adopted a new pay adjustment mechanism, codified at 37 U.S.C. §1009, under which the entire increase in military compensation was no longer incorporated solely in basic pay. Instead, raises were to be distributed to all three cash elements of RMC—basic pay, basic allowance for quarters, and basic allowance for subsistence—each of which was to be increased by the same percentage as General Schedule salaries.[20] Because the act required that the three cash

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[19] In *Immigration and Naturalization Service v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), the Supreme Court declared the so-called one-house veto unconstitutional. Under later applications of the Chadha doctrine, it would appear that the one-house-veto provisions of the Federal Pay and Comparability Act, codified at 5 U.S.C. §5305(c)(2), are similarly unconstitutional. See *American Federation of Government Employees, AFL-CIO, v. Reagan*, 806 F.2d 1034 (Fed. Cir. 1986), cert. denied sub nom.; *National Treasury Employees Union v. Reagan*, 481 U.S. 1068, 107 S.Ct. 2460 (1987). See also, e.g., *Process Gas Consumers Group v. Consumer Energy Council of America*, 463 U.S. 1216, 103 S. Ct. 3556, rehearing denied, 463 U.S. 1250 (1983), summarily affirming 673 F.2d 425 (D.C. Cir. 1982) and 691 F.2d 575 (D.C. Cir. 1982). (For congressional comment on the likely effect of Chadha on the Civil Service pay adjustment mechanism, see S. Rep. No. 98-174 (Committee on Armed Services), at 215–16, accompanying S. 675, 98th Cong., 1st sess. (1983).)

[20] See, e.g., S. Rep. No. 93-1132 (Committee on Armed Services), at 2, accompanying H.R. 15406, 93d Cong., 2d sess. (1974): "[The bill] H.R. 15406 [93d Cong., 2d sess. (1974)] will retain the principle that military pay raises are to be linked to federal civilian pay increases but will change the method of allocating pay raises. Instead of putting all of each

elements of RMC be increased by the same percentage as General Schedule salaries, the "tax advantage" was effectively cut out of the base used to calculate increases in basic pay and allowances. Although the tax advantage was thus effectively removed from the equation that determined pay increases, individual members in fact accrued an added tax advantage over and above that of the preceding adjustment mechanism, but now not only because the increase in basic pay rates resulted in military personnel being moved into higher tax brackets but also because part of the raise would go into nontaxable allowances. Before enactment of the Act of September 19, 1974, Pub. L. No. 93-419, *id*., the law required that enlisted commuted and leave ration rates be periodically adjusted by the Secretary of Defense to approximate the raw food cost of the daily ration; with enactment, all subsistence allowance rates were brought directly under the comparability adjustment formula, and commuted and leave ration allowances no longer reflected a direct relationship to government food costs.

The Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §303(b), 90 Stat. 923, 925 (1976), amending 37 U.S.C. §1009 as added by the Act of September 19, 1974, Pub. L. No. 93-419, *id*., permitted a further change in the method for distributing military pay increases by authorizing the President to allocate future overall increases among the three main cash elements of RMC—namely, basic pay, basic allowance for quarters, and basic allowance for subsistence[21]—on other than an equal percentage basis whenever he determined such action to be "in the best interest of the Government." The act provided, however, that the amount allocated to basic pay could not be less than 75 percent of the amount that would otherwise have been so allocated on an equal percentage allocation basis. The purpose of providing for a "reallocation" of compensation increases among the three cash elements of RMC was to enable progressive adjustments to be made to the two basic allowance elements so that those allowances would, after time, more nearly cover the costs they had originally been intended to defray, as well as to provide for more adequate quarters and subsistence allowances in general.[22] Under the amendments to 37 U.S.C. §1009 made by the 1977 Appropriation Authorization Act, the President was required to advise Congress regarding any planned reallocation at the earliest practicable time before the effective date of a military pay increase. Furthermore, all allocations of increases among the different elements of RMC were to be assessed in conjunction with the quadrennial reviews of military compensation required by 37 U.S.C. §1008(b),[23] and a full report was to be made to Congress summarizing the objectives and results of any non-proportional allocations the President chose to prescribe under the authority given him in the 1977 Appropriation Authorization Act.

The 1977 Appropriation Authorization Act, Pub. L. No. 94-361, *id*., §303(b), 90 Stat. 925, also allowed, but did not require, the President to provide for the payment of "partial BAQ" to members without dependents not entitled to cash BAQ. See 37 U.S.C. §1009(c)(2). The act stipulated that any partial BAQ payment made under this authority should be an amount equal to the difference between (1) the amount by which BAQ was increased on the basis of reallocation and to which affected members would be entitled were they not on sea or field duty or living in government quarters and (2) the amount by which BAQ would have been increased had the pay raise been distributed among the three cash elements of RMC on an equal percentage basis. See Chapter II.B.2., "Basic Allowance for Housing," below.

The Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980), effected several additional changes to the theretofore existing mechanism for adjusting basic pay and allowance rates. First, because of a general feeling that military pay had lagged behind civilian wages and that the comparability basis under which federal General Schedule civilian wages were adjusted may have limited

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pay raise solely into basic pay, future increases will be allocated to the three cash elements of RMC—basic pay, basic allowance for quarters and basic allowance for subsistence."

[21] See footnote 16 and accompanying text to this chapter, above.

[22] To the extent this reallocation authority is used to redirect increases that would otherwise have taken effect in basic pay to either the quarters or subsistence allowance, or both, reallocation has the incidental effect of lowering certain bonuses, separation payments, retired and retainer pays, drill pay, and any other pays the level or amount of which is, or has at one time or another been, linked to basic pay.

[23] See footnote 14 to this chapter, above.

applicability to military pay,[24] the General Schedule linkage adjustment mechanism incorporated in present 37 U.S.C. §1009(b)(3) was suspended for fiscal year 1981 in favor of an 11.7 percent overall increase—subject to reallocation by the President as more fully described below—in the three cash elements of RMC,[25] and the President was directed to make recommendations to Congress by April of 1981 on an appropriate measure of comparability for military pay and an appropriate mechanism for determining the amount of future increases in such pay.[26]

Second, in order to give the President greater flexibility in adjusting military compensation under the adjustment mechanism set out in the then-current 37 U.S.C. §1009,[27] and in particular to allow the President at his discretion to grant disproportionately greater increases in pay to so-called "career" members, the 1981 Authorization Act, Pub. L. No. 96-342, *id*., gave the President authority to reallocate whatever amount of any overall increase in military compensation was allocated to basic pay among pay-grade and years-of-service categories after application of the authority to reallocate among the three cash elements of RMC.[28] In using this new reallocation authority, however, the President was prohibited from reallocating more than 25 percent of the increase in basic pay that would otherwise have gone to any specific pay-grade/years-of-service category. In addition, the President also was prohibited from using the new reallocation authority to increase the basic pay of personnel with less than four years of service by a greater percentage than federal general schedule civilian wages were increased, thus underlining the intended purpose of allowing the President to grant disproportionately greater increases to "career" personnel. With respect to the 11.7-percent increase in military compensation mandated by the 1981 Authorization Act, the President was explicitly given reallocation authority as regards both the distribution of the overall increase among the three cash elements of RMC and the distribution of the resulting increase in basic pay among pay grades and years-of-service groupings.[29]

Contemporaneous with enactment of the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980), the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §6(b), 94 Stat. 1123, 1127 (1980), effected a technical amendment to the preexisting basic pay structure by adding a new "saved pay" provision. The provision ensured that enlisted personnel appointed as officers (either commissioned officers or warrant officers) and warrant officers appointed as commissioned officers would not have to suffer any reduction in pay as a result of such appointments, thus removing any disincentives to the acceptance of such appointments.[30] [See 37 U.S.C. §907.] In addition, the Compensation Amendments provided that, to the extent the "saved pay" provisions were inapplicable, commissioned officers in pay grades O-1, O-2, and O-3 who were credited with more than four years of active service as warrant officers were to receive basic pay computed in the same way as the basic pay of commissioned

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[24] See, e.g., S. Rep. No. 96-826 (Committee of Conference), at 121, and H.R. Rep. No. 96-1222 (Committee of Conference), at 95, accompanying H.R. 6974, 96th Cong., 2d sess. (1980). Also see, e.g., 126 Cong. Rec. 1643–1645 (1980) (126 Cong. Rec. S828–S830, daily ed. February 4, 1980) (remarks of Senator Matsunaga in debate on H.R. 5168, subsequently adopted, with amendments, as the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, 94 Stat. 1123 (1980), on the same day as the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980)).

[25] Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, *id*., §801, 94 Stat. 1090–1091.

[26] Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, *id*., §802, 94 Stat. 1091.

[27] See, e.g., S. Rep. No. 96-826 (Committee of Conference), at 122, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).

[28] Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, *id*., §801(b)(2), 94 Stat. 1091.

[29] Before the 11.7 percent overall pay increase became effective on October 1, 1980, the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §7, 94 Stat. 1123, 1128 (1980), adopted the same day as the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980), further sidestepped the pay adjustment mechanism of 37 U.S.C. §1009 by granting a 10 percent increase in basic allowance for subsistence rates. Under the Military Personnel and Compensation Amendments Act, Pub. L. No. 96-343, *id.*, the subsistence allowance was increased by 10 percent effective September 1, 1980, only to be increased further under the 1981 Authorization Act, Pub. L. No. 96-342, *id.*, on October 1, 1980. See Chapter II.B.3., "Basic Allowance for Subsistence," below.

[30] H.R. Rep. No. 96-1233 (Committee of Conference), at 14, accompanying H.R. 5168, 96th Cong., 2d sess. (1980).

officers credited with more than four years of active enlisted service. [See 37 U.S.C. §203(d) as in effect after adoption of the Military Personnel and Compensation Amendments of 1980.][31]

The pay adjustment mechanism incorporated in 37 U.S.C. §1009 was suspended again the following year—this time in its entirety—by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, 95 Stat. 989 (1981). Under that act, congressionally mandated increases in basic pay, basic allowance for subsistence, and basic allowance for quarters—in short, for all three of the main cash components of RMC—were adopted as of October 1, 1981, effectively preempting the President's reallocation authority. In adopting these new pay rates, under which quarters and subsistence allowances were increased by 14.3 percent across the board and basic pay was increased from 10 to 17 percent, depending on pay grade, Congress made it clear that it was trying to "restore, in current dollars, the relative relationship of military compensation to pay in the private sector that existed in 1972" when Congress adopted the "all-volunteer force" construct as the manning principle for the armed services.[32] [33] While noting that some improvement in retention and manning levels had occurred after the 11.7-percent pay increase adopted in the 1981 Authorization Act, Congress went on to state that "additional actions are required"[34] and "further substantial improvements [in pay rates] are necessary in fiscal year 1982 to provide necessary incentives for a career of military service"[35] and adopted the 1981 Pay Act raises as the method for achieving the needed improvements in manning and retention levels. In addition, Congress, especially the Senate, noted that it was convinced that the existing comparability indices used in determining the annual increase in military pay under the linkage mechanism of 37 U.S.C. §1009(b)(3) were defective and that a new adjustment mechanism should be developed.[36] As a result, the pay rates established under the 1981 Pay Act were more or less provisional in nature, awaiting the development of a more refined adjustment mechanism "appropriately weighted to reflect the military skill mix."[37] In particular, Congress specifically noted that "the Administration [had under the 1981 Authorization Act been] directed to provide recommendations by April 1, 1981, concerning the appropriate mechanism for making annual adjustments to military pay ... [but that] final recommendations have not yet been provided"[38] and that the pay tables adopted under the act were in the nature of a stopgap pending the development of administration recommendations for a new pay adjustment mechanism. The Senate Armed Services Committee expressly noted that it "strongly believes [such a] mechanism must be developed within the next year."[39]

No such mechanism was developed, however, and in 1982 basic pay rates for members of the uniformed services were increased by 4 percent. The 4-percent figure derived from a 4-percent "cap" placed

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[31] See 37 U.S.C. §203 note (under heading "1983 Amendment") for the text of 37 U.S.C. §203(d) as in effect after adoption of the Military Personnel and Compensation Amendments of 1980 and before amendment by the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §902(a), 97 Stat. 614, 635 (1983).

[32] See, e.g.., H.R. Rep. No. 97-109 (Committee on Armed Services), pt. 1, at 1 and 4, accompanying H.R. 3380, and S. Rep. No. 97-146 (Committee on Armed Services), at 2 and 3, accompanying S. 1181, 97th Cong., 1st sess. (1981). Also see 127 Cong. Rec. 20288-20290 (1981) (127 Cong. Rec. S9452, daily ed. September 11, 1981) (remarks of Senator Hatfield).

[33] In debate, Congress noted that military compensation had fallen behind civilian comparability levels because of a number of pay caps imposed as part of the government's efforts to fight inflation. See, e.g., 127 Cong. Rec. 20620 (1981) (127 Cong. Rec. H6217, daily ed. September 15, 1981) (remarks of Representative Nichols). (The same point had been made the preceding year, also in congressional debate, in connection with the Senate's consideration of H.R. 5168, subsequently adopted, with amendments, as the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, 94 Stat. 1123 (1980). See, e.g., 126 Cong. Rec. 1643–1645 (1980) (126 Cong. Rec. S828– S830, daily ed. February 4, 1980) (remarks of Senator Matsunaga in debate on H.R. 5168, subsequently adopted, with amendments, as the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, 94 Stat. 1123 (1980)).)

[34] H.R. Rep. No. 97-109 (Committee on Armed Services), pt. 1, at 1, accompanying H.R. 3380, 97th Cong., 1st sess. (1981).

[35] S. Rep. No. 97-146 (Committee on Armed Services), at 2, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[36] S. Rep. No. 97-146 (Committee on Armed Services), at 7, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[37] S. Rep. No. 97-146 (Committee on Armed Services), at 7, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[38] S. Rep. No. 97-146 (Committee on Armed Services), at 7, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[39] S. Rep. No. 97-146 (Committee on Armed Services), at 7, accompanying S. 1181, 97th Cong., 1st sess. (1981).

on civil service pay increases for fiscal year 1983; this-4 percent "cap" was translated into the uniformed services arena through the pay adjustment mechanism of 37 U.S.C. §1009. [See Executive Order 12387, 47 Fed. Reg. 44981 (October 8, 1982).]

In 1983 Congress again expressed its dissatisfaction with the pay adjustment mechanism of 37 U.S.C. §1009. The Senate in particular recommended that the link between "military pay" and Civil Service wages be "severed" and that an appropriate "index" for "military pay" be developed.[40] As stated in the Senate report:

> To date, no military pay adjustment standard has been adopted for the specific purpose of establishing appropriate pay comparisons between the military and the private sectors. The current General Schedule/PATC [Professional, Administrative, Technical and Clerical Survey] linkage measures select white collar private sector occupation [sic] which closely match the composition of the Federal civilian work force. The PATC survey was not intended to mirror the predominantly blue collar military force.[41]

As reflected in the Senate report, the basic concern was that the pay adjustment linkage between Civil Service wages and uniformed services pay resulted in inordinately large increases for uniformed services personnel, and that what was wanted was an index that would "provide assurance to the country that military members are receiving no more than what the average private sector worker is receiving in annual pay raises."[42] The Senate then went on to note that its preferred index had increased "8.1% in contrast to PATC growth of 9.5%" over the period March 1981–March 1982.[43]

Compromising their respective concerns, the House and Senate agreed once again to suspend the pay adjustment mechanism of 37 U.S.C. §1009. In the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §901, 97 Stat. 614, 634–35 (1983), the uniformed services were granted a 4-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence. This increase applied to all members of the uniformed services except for "enlisted members in pay grade E-1 with less than 4 months of active duty." [Section 901(b)(2) of the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, *id*., §901(b)(2), 97 Stat. 634; see 37 U.S.C. §1009 note.] This pay increase became effective January 1, 1984.[44]

In addition to increasing basic pay and allowances as previously indicated, the 1984 Department of Defense Authorization Act, Pub. L. No. 98-94, *id*., also amended 37 U.S.C. §203(d) to provide that the basic pay of a commissioned officer in pay grades O-1, O-2, or O-3 who had more than four years of "active service" as a warrant officer or as a warrant officer and enlisted member was to be computed in the same way as the basic pay of a commissioned officer in the same pay grade with more than four years of "active service" as an enlisted member. [Section 902(a) of the 1984 Authorization Act, Pub. L. No. 98-94, *id*., 97 Stat. 635.][45] This amendment became effective October 1, 1983. [See *id*., §902(b).] As explained by the House Armed Services Committee, the amendment was intended to rectify an incorrect interpretation of Congress's intent in the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §6(b), 94 Stat. 1123, 1127 (1980):

> Current law authorizes a special basic pay table for commissioned officers who served over four years of active service as warrant officers or as enlisted members. The table

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[40] S. Rep. No. 98-174 (Committee on Armed Services), at 215, accompanying S. 675, 98th Cong., 1st sess. (1983).
[41] S. Rep. No. 98-174 (Committee on Armed Services), at 215, accompanying S. 675, 98th Cong., 1st sess. (1983).
[42] S. Rep. No. 98-174 (Committee on Armed Services), at 215, accompanying S. 675, 98th Cong., 1st sess. (1983).
[43] S. Rep. No. 98-174 (Committee on Armed Services), at 215, accompanying S. 675, 98th Cong., 1st sess. (1983). But see H.R. Rep. No. 98-107 (Committee on Armed Services), at 208–9, accompanying H.R. 2969, 98th Cong., 1st sess. (1983), in which the primary concern expressed was that uniformed service pay rates not be allowed to fall too far behind "comparability".
[44] Executive Order No. 12456, 49 Fed. Reg. 347 (December 30, 1983). See H.R. Rep. No. 98-352 (Committee of Conference), at 223–24, and S. Rep. No. 98-213 (Committee of Conference), at 223–24, accompanying S. 675, 98th Cong., 1st sess. (1983).
[45] See footnotes 30 and 31 and accompanying text to this chapter, above.

> recognizes the experience such officials bring to the commissioned officer corps. Unfortunately, the wording of the current authority has been interpreted to mean that a member have either four years of prior enlisted service or over four years of prior warrant officer service in order to be eligible to use the special table. Combined enlisted and warrant officer service totaling over four years is not considered to meet the requirements of the law.
>
> The committee recommends correction of this anomaly by permitting active service as warrant officer and enlisted member to be combined for the purpose of establishing eligibility to use the special basic pay.[46] [47]

The Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §601, 98 Stat 2492, 2533 (1984), again bypassed the pay adjustment mechanism of 37 U.S.C. §1009. In the 1985 Authorization Act, basic pay and basic allowance for subsistence were each increased by 4 percent, while basic allowance for quarters was effectively restructured. See Chapter II.B.2., "Basic Allowance for Housing," below. The 4-percent increase applied to all members of the uniformed services except personnel in pay grade E-1 with less than four months of active duty. Although the House expressed concern that members of the uniformed services were continuing to fall farther behind "comparability with private-sector wages,"[48] both Houses of Congress agreed to limit the increase to 4 percent because of "the extraordinary pressure to reduce defense spending"[49] and "difficult budgetary constraints."[50] The limited pay raise was characterized as "identical to the terms of the cost-of-living increase"[51] given to uniformed services personnel the preceding year.[52] The increase became effective January 1, 1985. [Section 601(b)(1) of the 1985 Authorization Act, Pub. L. No. 98-525, *id*., §601(b)(1), 98 Stat. 2533; see 37 U.S.C. §1009 note.]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §601, 99 Stat. 583, 635–36 (1985), provided a 3-percent increase in basic pay, basic allowance for subsistence, and basic allowance for quarters, thus again bypassing the pay adjustment mechanism of 37 U.S.C. §1009. These increases, which applied to all members of the uniformed services, became effective on October 1, 1985. [Section 601(b) of the 1986 Authorization Act, *id*., §601(b), 99 Stat. 636; see 37 U.S.C. §1009 note.] Again, "difficult budgetary constraints" were cited as factors limiting the increase authorized.[53] Nevertheless, the House Armed Services Committee indicated that it ... recognizes the importance of adequate pay to recruiting and retaining high quality personnel and reiterates its commitment to providing periodic pay increases for our nation's men and women in uniform.[54]

Like the 1986 Defense Authorization Act, the authorization acts for fiscal years 1987, 1988, 1989, 1990, and 1991 all bypassed the Section 1009 adjustment mechanism. In bypassing this adjustment mechanism, the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §601(a) and (b), 100 Stat. 3816, 3873 (1986), incorporated a 3-percent increase in basic pay, basic allowance for subsistence, and basic allowance for quarters, effective January 1, 1987; the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §601(b) and (c), 101 Stat. 1019, 1092 (1987), as amended by the Act of December 22, 1987 (Continuing Appropriations for Fiscal Year 1988), Pub. L. No.

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[46] H.R. Rep. No. 98-107 (Committee on Armed Services), at 209–10, accompanying H.R. 2969, 98th Cong., 1st sess. (1983). See H.R. Report No. 98-352 (Committee of Conference), at 224, and S. Rep. No. 98-213 (Committee of Conference), at 224, accompanying S. 675, 98th Cong., 1st sess. (1983).

[47] See text accompanying footnotes 30 and 31 to this chapter, above.

[48] H.R. Rep. No. 98-691 (Committee on Armed Services), at 255–56, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[49] H.R. Rep. No. 98-691 (Committee on Armed Services), at 256, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[50] S. Rep. No. 98-500 (Committee on Armed Services), at 204, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[51] S. Rep. No. 98-500 (Committee on Armed Services), at 204, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[52] See H.R. Rep. No. 98-1080 (Committee of Conference), at 294–95, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[53] S. Rep. No. 99-41 (Committee on Armed Services), at 190, accompanying S. 1029, 99th Cong., 1st sess. (1985).

[54] H.R. Rep. No. 99-41 (Committee on Armed Services), at 216, accompanying S. 1872, 99th Cong,, 1st sess. (1985).

100-202, §110(b), 101 Stat. 1329, 1329–1436 (1987), a 2-percent increase in basic pay, basic allowance for subsistence, and basic allowance for quarters, effective January 1, 1988; the National Defense Authorization Act for Fiscal Year 1989, Pub. L. No. 100-456, §601(b) and (c), 102 Stat. 1918, 1976 (1988), a 4.1-percent increase in basic pay and basic allowance for subsistence and a 7-percent increase in basic allowance for quarters, effective January 1, 1989; the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §601(b), 103 Stat. 1352, 1444 (1989), a 3.6-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1990; and the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §601(b), 104 Stat. 1485, 1575 (1990), a 4.1-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1991.[55]

In adopting these increases, Congress continued to express concern about the level of military compensation and its relationship to private-sector wage rates, on the one hand, and the overall budget deficit, on the other. In connection with its consideration of the 1987 National Defense Authorization Act, Pub. L. No. 99-661, 100 Stat. 3816 (1986), cited above, the Senate Armed Services Committee noted:

> Military pay levels continue to lag behind comparable civilian wages. As measured by the Employment Cost Index of the Bureau of Labor Statistics, military pay trails civilian wages by 8.3 percent. Without a four percent increase in military pay [the increase proposed by the Senate Armed Services Committee in its original bill, S. 2638] during 1987, it is likely that this gap will grow even larger. The committee believes that, even in light of the severe budget constraints being imposed on defense, it is essential that military pay not be permitted to fall further behind civilian wages.[56]

The House–Senate conference agreed on a 3-percent pay increase.[57]

In considering a military pay raise for fiscal year 1988, the House Armed Services Committee apparently concluded that a 3-percent raise would keep "military pay ... competitive with the private sector."[58] As the committee stated more fully:

> Recognizing the importance of maintaining a competitive edge, particularly as the recruiting environment becomes tighter, the committee is strongly committed to ensuring that active duty personnel receive a pay raise. However, given the climate of fiscal austerity, the committee was unable to grant the Administration's request for a four percent increase.
>
> The ... [House Committee on Armed Services] assumes that military personnel will receive a three percent pay raise on January 1, 1988; .... This increase is consistent with the pay raise granted last year and allows pay to keep ahead of inflation.
>
> Clearly, the large military pay raises provided in 1980 (11.7 percent) and 1981 (14.3 percent) restoring pay comparability with the private sector were critical to the dramatic turn-around in recruitment and retention experienced since that time. The committee believes that military pay must remain competitive with the private sector and, therefore, recommends a three percent pay raise in January 1988.[59]

The Senate, on the other hand, saw matters somewhat differently and again proposed a 4 percent increase in the cash elements of RMC, noting as follows:

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[55] In providing these increases in military pay for fiscal years 1986 through 1991, the relevant authorization acts did not in terms provide authority for the President to redistribute, or reallocate, the increase pursuant to the supplementary adjustment mechanisms incorporated in 37 U.S.C. §1009(c)(1) and (d)(1).
[56] S. Rep. No. 99-331 (Committee on Armed Services), at 225, accompanying S. 2638, 99th Cong., 2d sess. (1986).
[57] National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §601(a), 100 Stat. 3816, 3873 (1986). See H.R. Rep. No. 99-1001 (Committee of Conference), at 476, accompanying S. 2638, 99th Cong., 2d sess. (1986).
[58] H.R. Rep. No. 100-58 (Committee on Armed Services), at 203, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).
[59] H.R. Rep. No. 100-58 (Committee on Armed Services), at 203, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).

> The committee recommends approval of the 4.0 percent request [submitted by the Administration] for fiscal year 1988.... The 4 percent raise in fiscal year 1988 will essentially match expected wage growth in the private sector and prevent the 9.4 percent gap between military pay and private sector pay from widening.[60]

In conference, the House and Senate conferees did not directly address their seemingly differing views on the adequacy of military compensation in relationship to private-sector wage rates. Rather, in recommending the bill that became the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, 100 Stat. 1019 (1987), the conferees agreed to a 3-percent increase in basic pay and basic allowance for subsistence and a 6-percent increase in basic allowance for quarters, stating simply:

> The Conferees note that, in 1985, basic allowance for quarters (BAQ) rates are [sic, were?] restructured so that they would cover 65 percent of national median housing costs in each pay grade. Since the 1985 restructuring, BAQ has lagged behind housing cost growth, causing BAQ to fall below the 65 percent standard. The Conferees intend the six percent increase in BAQ to be a step toward restoring BAQ to the 65 percent standard.[61]

The House view on the adequacy of military compensation levels evidently prevailed *sub silentio.* Despite the 3 percent increase in basic pay and basic allowance for subsistence and the 6-percent increase in basic allowance for quarters provided for in the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §601(b) and (c), 101 Stat. 1019, 1092 (1987), that amount was scaled back to a 2-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence by the "budget summit agreement" memorialized in the Act of December 22, 1987 (Continuing Appropriations for Fiscal Year 1988), Pub. L. No. 100-202, §110(b), 101 Stat. 1329, 1329–1436 (1987). The driving force behind the reduction from the increases proposed in the 1988/1989 Authorization Act was concern over the overall federal budget deficit. No specific concerns were expressed about the impact of the limitation on military recruitment or retention—just as no concerns were expressed for parallel reductions in increases that otherwise would have become effective for federal Civil Service employees.[62]

In recommending a military pay increase in connection with its consideration of the 1989 National Defense Authorization Act—enacted as the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, 102 Stat. 1918 (1988)—the House Armed Services Committee stated:

> In fiscal year 1988, as a part of the budget summit agreement, military personnel received only a two percent pay raise. The committee anticipates considerable budgetary pressure to reduce substantially the pay raise request for fiscal year 1989....
>
> Today, the nation's armed forces have the highest quality young men and women in history, representing a dramatic reversal of the dark days of the 1970's when recruiting and retention rates plummeted. Although several factors contributed to the turnaround, the large pay raises in October 1980 and 1981 played a paramount role. The committee believes that a competitive rate of pay remains important and is deeply concerned that the gap between private sector and military salaries, as measured by the Employment Cost Index (ECI), is widening. Currently, military pay lags 11 percent behind wages in the civilian economy. If this trend is not reversed, the nation's armed forces could again fall on hard times.
>
> The committee therefore recommends a four percent increase in basic pay and basic allowance for subsistence (BAS) and a seven percent increase in basic allowance for quarters (BAQ). The committee believes reallocation of a small fraction of the pay raise into the basic

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[60] S. Rep. No. 100-57 (Committee on Armed Services), at 144, accompanying S. 1174, 100th Cong., 1st sess. (1987).
[61] H.R. Rep. No. 100-446 (Committee of Conference), at 641, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).
[62] See Act of December 22, 1987 (Continuing Appropriations for Fiscal Year 1988), Pub. L. No. 100-202, §110(a), 101 Stat. 1329, 1329–1436 (1987).

allowance for quarters is sensible because basic allowance for quarters continues to fall behind the soaring cost of housing in the civilian economy.

In an effort to address the problem of inadequate reimbursement for housing costs for certain individuals, Congress in the 1985 Defense Authorization Act (Public Law 98-525 [98 Stat. 2492 (1984)]) restructured the basic allowance for quarters and variable housing allowance (VHA) programs, pegging the basic allowance for quarters to a percentage (65 percent) of national median housing costs. The service member was expected to absorb 15 percent of housing costs, at which point the variable housing allowance kicks in.

The program envisioned that the Department of Defense would periodically seek to update the BAQ rates, in order to maintain the linkage with national median housing costs. This, however, has not occurred. Instead, basic allowance for quarters has been increased each year, along with and by the same percentage as the annual pay raise, but national housing costs have gone up faster than pay raises. The Department of Defense has attempted to address this problem through increased variable housing allowance. This year's budget proposes a 3.4 percent VHA increase. Unfortunately, due to budget constraints, variable housing allowance has been capped through the appropriations process for the past two years.

Currently, the BAQ rates have declined to slightly over 59 percent of national median housing costs, instead of 65 percent. With the caps on variable housing allowance, service members are now absorbing over 22 percent of their housing costs, instead of the 15 percent envisioned when the program was restricted [sic, restructured?][63] by Public Law 98-525 [Department of Defense Authorization Act, 1985, 98 Stat. 2492 (1984)].

In an attempt to address this problem, last year the fiscal 1988/1989 Defense Authorization Act (Public Law 100-180 [§601(b) and (c), 101 Stat. 1019, 1092 (1987)]) authorized a six percent increase in basic allowance for quarters, along with a three percent increase in basic pay. Both the pay raise and the BAQ increase were subsequently limited to two percent in compliance with the budget summit agreement.

The seven percent increase [in basic allowance for quarters, as proposed in the House bill, H.R. 4264, 100th Congress, 2d Session (1988)] would raise basic allowance for quarters to 62 percent of national median housing costs and, hopefully, would constitute the first step of a return to the 65 percent level established in the 1985 Defense Authorization Act [Public Law 98-525, §602(a)(1), 98 Stat. 2492, 2533 (1984) (establishing new BAQ rates), see House Report No. 98-1080 (Committee of Conference), p. 295, accompanying H.R. 5167, 98th Congress, 2d Session (1984) (stating that the BAQ rates thus established are 65 percent of national median housing costs)].[64]

The Senate Armed Services Committee, on the other hand, accepted the recommendations of the Department of Defense for a 4.3-percent pay raise, which the committee noted should "keep the reported pay gap between private sector wages and military pay of 11 percent from widening."[65]

In conference, a 4.1-percent increase in basic pay and basic allowance for subsistence and a 7-percent increase in basic allowance for quarters were agreed upon, with the conferees noting:

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[63] See characterization of the 1985 Defense Authorization Act, Pub. L. No. 98-525, as having "restructured the basic allowance for quarters and variable housing allowance (VHA) programs" in the second preceding paragraph. In granting increases in basic allowance for quarters and pegging BAQ rates at 65 percent of national median housing costs, the 1985 Defense Authorization Act can hardly be said to have "restricted" the BAQ program.

[64] H.R. Rep. No. 100-563 (Committee on Armed Services), at 251–52, accompanying H.R. 4624, 100th Cong., 2d sess. (1988).

[65] S. Rep. No. 100-326 (Committee on Armed Services), at 92, accompanying S. 2355, 100th Cong., 2d sess. (1988).

> The 4.3 percent across the board [sic] military pay raise requested by the Administration was based on projected private sector wage growth as measured by the employment cost index (ECI). At the time the request was submitted, the projected ECI was 4.3 percent. The 4.3 percent pay raise request matched the projected ECI increase to keep the 11 percent gap between private sector pay increases and military pay increases from widening.
>
> The actual ECI has now been reported as 3.5 percent. Therefore, the projection on which the Administration's request was based is overstated by 0.8 of a percentage point. As a result, the conference agreement will actually close the gap between private sector and military wage growth by 0.6 of a percentage point, the first time the military pay raise will exceed the ECI since 1981.[66]

The Conference Committee did not specifically address the question of the appropriateness of a 7-percent increase in basic allowance for quarters, apparently accepting the reasoning of the House Committee on Armed Services as expounded in H. Rep. No. 100-563, quoted above *in extenso*.

In recommending approval of the administration's proposal to increase military pay rates by 3.6 percent in fiscal year 1990, the House Armed Services Committee stated:

> Recognizing the importance of pay to the total military compensation package, especially in a tight recruiting environment, the committee remains committed to ensuring that military pay remains competitive with the private sector. Accordingly, the committee recommends approval of the administration request for a 3.6 percent increase in basic pay, basic allowance for quarters and basic allowance for subsistence and regrets that fiscal constraints preclude the payment of a higher pay raise.[67]

Expressing concern over the gap between military and private-sector pays, the Senate Armed Services Committee nevertheless recommended approval of the 3.6-percent pay increase proposed by the Department of Defense:

> The committee recommends ... approval of the 3.6 percent pay raise requested by the Department of Defense for military personnel effective January 1, 1990.
>
> The committee notes that the requested pay raise for military personnel is less than the projected wage growth in the private sector, as measured by the Employment Cost Index (ECI), of 4.3 percent. Using this measure, the gap between military and private sector pay has grown from relative comparability in 1981 to 11 percent. This gap is of concern to the committee.[68]

In connection with its consideration of a military pay increase for fiscal year 1991, the Senate Armed Services Committee noted:

> The committee notes that the recommended pay raise [of 3.5 percent] is less than the expected wage growth in the private sector. However, the committee also notes that the administration recommended the 3.5 percent pay raise in its annual report on the adequacy of pay and allowances of the Armed Forces as "... adequate at this time to support our force objectives going into the early 1990s."[69]

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[66] H.R. Rep. No. 100-753 (Committee of Conference), at 403, accompanying H.R. 4264, and H.R. Rep. No. 100-989 (Committee of Conference), at 404–5, accompanying H.R. 4481, 100th Cong., 2d sess. (1988).
[67] H.R. Rep. No. 101-121 (Committee on Armed Services), at 274, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).
[68] S. Rep. No. 101-82 (Committee on Armed Services), at 176, accompanying S. 1352, 101st Cong., 1st sess. (1989).
[69] S. Rep. No. 101-384 (Committee on Armed Services), at 171, accompanying S. 2884, 101st Cong., 2d sess. (1990).

In commenting on a 1991 pay increase, the House Armed Services Committee, on the other hand, stated:

> The committee remains committed to preserving a total military compensation package that will continue to attract and retain the high quality young men and women in the nation's armed forces today. The committee is determined to maintain a competitive level of compensation in the future and to protect the quality of life for service members and their families. Accordingly the committee recommends a 4.1 percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence.... This is a 0.6 percent increase over the President's budget request of 3.5 percent.[70]

The House proposal to increase military pay by 4.1 percent beginning January 1, 1991, was adopted in conference without discussion.[71]

In contrast to the extensive concern expressed over the level and adequacy of military pay raises for fiscal years 1987 through 1991, as well as the appropriate index to use in adjusting pay rates from year to year, some of the military pay raises for fiscal years 1992 through 1996 were treated as more of a routine affair. Like the pay raises stretching back to fiscal year 1983, the authorization acts for fiscal years 1992 through 1996 all bypassed the Section 1009 adjustment mechanism,[72] although during that period only in 1985 and 1994 did the congressionally mandated raises not match those that would have been called for by Section 1009.[73]

The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §601(b), 105 Stat. 1290, 1372 (1991), provided for a 4.2-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1992; the National Defense Authorization

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[70] H.R. Rep. No. 101-665 (Committee on Armed Services), at 286, accompanying H.R. 4739, 101st Cong,, 2d sess. (1990).

[71] H.R. Rep. No. 101-923 (Committee of Conference), at 611, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).

[72] The Section 1009 adjustment mechanism, 37 U.S.C. §1009, was used on an interim basis to provide a 1996 military pay raise, but the pay raise effected by the Section 1009 mechanism was subsequently rescinded. On December 28, 1995, President Clinton vetoed H.R. 1530, 104th Cong., 1st sess. (1995), the National Defense Authorization Bill for Fiscal Year 1996, which incorporated a 2.4-percent increase in basic pay and basic allowance for subsistence and a 5.2-percent increase in basic allowance for quarters, while at the same time issuing Executive Order 12984, 61 Fed. Reg. 237 (January 3, 1996), as required by and under the authority of 37 U.S.C. §1009, to provide a 2.0-percent increase in military pay effective January 1, 1996. A substitute bill, S. 1124, 104th Cong., 1st sess. (1995), was presented to the President on January 30, 1996, and approved by him on February 10, 1996, thereby becoming the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186 (1996). In addition to providing a 2.4-percent increase in basic pay and basic allowance for subsistence, Section 601(b) of the act, §601(b), *id*., 110 Stat. 356, and a 5.2-percent increase in basic allowance for quarters, Section 601(c) of the act, §601(c), *id*., 110 Stat. 356, effective retroactively to January 1, 1996, Section 601(d) of the act, §601(d), *id*., 110 Stat. 356, as had H.R. 1530, Section 601(a) of the act, *id*., §601(a), 110 Stat. 356, specifically rescinded the pay increase effected by Executive Order 12984. (The President's reason for vetoing H.R. 1530 had nothing to do with the increases in basic pay and the basic allowances for quarters and subsistence incorporated in the bill. See "President's Message to the House of Representatives Returning Without Approval the National Defense Authorization Act for Fiscal Year 1996," 31 Weekly Comp. Pres. Doc. 2233 (December 28, 1995), and "President's Letter to the Speaker of the House of Representatives on Vetoing the National Defense Authorization Act," 31 Weekly Comp. Pres. Doc. 2235 (December 28, 1995); see 142 Cong. Rec. H12 (daily ed. January 3, 1996).)

The increases in basic pay and the basic allowances for quarters and subsistence authorized by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §601(b) and (c), 110 Stat. 186, 356 (1996), were implemented by Executive Order 12990 of February 29, 1996, 61 Fed. Reg. 8467 (March 5, 1996). See in particular the schedule attached to Executive Order 12990 titled "Pay and Allowances of the Uniformed Services (Effective January 1, 1996)", *id*., 61 Fed. Reg. at 8468–8470 (schedule reprinted at 37 U.S.C. §1009 note).

[73] Robert L. Goldich, "Military Pay and Benefits: Key Questions and Answers," *CRS Issue Brief for Congress*, December 27, 2001, 6.

Act for Fiscal Year 1993, Pub. L. No. 102-484, §601(b), 106 Stat. 2315, 2420 (1992), a 3.7-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1993; the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §601(b), 107 Stat. 1547, 1677 (1993), a 2.2-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1994; the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §601(b), 108 Stat. 2663, 2779 (1994), a 2.6-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1995; and the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §601(b) and (c), 110 Stat. 186, 356 (1996), a 2.4-percent increase in basic pay and basic allowance for subsistence and a 5.2-percent increase in basic allowance for quarters, effective January 1, 1996.

Except for the pay raises for military personnel for fiscal years 1994 and 1996, none of the deliberations on allowance adjustments in these years explicitly dealt with either the level or adequacy of military pay in terms of attracting and retaining appropriate numbers of military personnel or the skills necessary for a modern military force. The question of the appropriate index to use in adjusting military pay rates from year to year also did not arise.[74]

For fiscal year 1994, the Clinton administration had proposed a freeze on military pay, but neither the Senate nor the House chose to go along with the administration. The Senate in particular felt it would be inequitable to freeze the pay of military personnel when federal civilian employees would almost certainly get a pay raise and the "comparability gap" between private sector and military pay would increase. As the Senate noted:

> The committee recommends a provision ... that would authorize a 2.2 percent pay raise for military personnel on January 1, 1994. The administration proposed a pay freeze for federal civilian employees, including military personnel, in its budget request. Under current law, the normal pay raise would have been a 2.2 percent increase on January 1, 1994 [under the provisions of 37 U.S.C. §1009]. In testimony before the committee, Defense Department

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[74] With respect to the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §601(b), 105 Stat. 1290, 1372 (1991), and the pay raise authorized for calendar year 1992, see H.R. Rep. No. 102-60 (Committee on Armed Services), at 247, accompanying H.R. 2100; and S. Rep. No. 102-113 (Committee on Armed Services), at 221, accompanying S. 1507; *cf.* H.R. Rep. No. 102-311 (Committee of Conference), at 548, accompanying H.R. 2100, 102d Cong., 1st sess. (1991). With respect to the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §601(b), 106 Stat. 2315, 2420 (1992), and the pay raise authorized for calendar year 1993, see H.R. Rep. No. 102-527 (Committee on Armed Services), at 243, accompanying H.R. 5006; and S. Rep. No. 102-352 (Committee on Armed Services), at 208, accompanying S. 3114; *cf.* H.R. Rep. No. 102-966 (Committee of Conference), at 712, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). With respect to the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §601(b), 107 Stat. 1547, 1677 (1993), and the pay raise authorized for calendar year 1994, see H.R. Rep. No. 103-200 (Committee on Armed Services), at 293, accompanying H.R. 2401; S. Rep. No. 103-112 (Committee on Armed Services), at 151–52, accompanying S. 1298; and H.R. Rep. No. 103-357 (Committee of Conference), at 682, accompanying H.R. 2401, 103d Cong., 1st sess. (1993). With respect to the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §601(b), 108 Stat. 2663, 2779 (1994), and the pay raise authorized for calendar year 1995, see H.R. Rep. No. 103-499 (Committee on Armed Services), at 601, accompanying H.R. 4301; S. Rep. No. 103-282 (Committee on Armed Services), at 193, accompanying S. 2182; and H.R. Rep. No. 103-701 (Committee of Conference), at 711, accompanying S. 2182, 103d Cong., 2d sess. (1994). With respect to the National Defense Act for Fiscal Year 1996, Pub. L. No. 104-106, §601(b) and (c), 110 Stat. 186, 356 (1996), and the pay raise authorized for calendar year 1996, see H.R. Rep. No. 104 -131 (Committee on National Security), at 229, accompanying H.R. 1530; S. Rep. No. 104-112, at 253, accompanying S. 1026, and H.R. Rep. No. 104-406 (Committee of Conference), at 813, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); as well as H.R. Rep. No. 104-450 (Committee of Conference), at 803–4, accompanying S. 1124, 104th Cong., 2d sess. (1996).

In providing these increases in military pay for calendar years 1992 through 1996, the relevant authorization acts did not in terms provide authority for the President to redistribute, or reallocate, the increase pursuant to the supplementary adjustment mechanisms incorporated in 37 U.S.C. §1009(c)(1) and (d)(1).

> witnesses indicated that military personnel overwhelmingly oppose the pay freeze, but that they could justify the pay freeze as long as military personnel are not singled out to bear a disparate sacrifice.
>
> Although federal civilians would forego the normal January 1 pay raise just as military personnel would under the administration's pay freeze proposal, current law provides for a second component to federal civilian pay, a locality adjustment, to address pay disparities for different areas which takes effect on January 1, 1994. Locality payments are mandated by law for areas where the difference between federal and non-federal pay exceeds five percent. According to the Office of Management and Budget, because federal civilian pay lags private sector pay by over 25 percent in the aggregate, practically all civilian white collar workers would receive a locality pay increase.
>
> The administration has requested in its budget that the locality pay adjustment be delayed for one year to January 1, 1995. This would require legislative action. At the time of this report, the House [Budget] Reconciliation bill contains a provision that would delay the implementation of federal civilian locality pay by six months to July 1, 1994. The Senate Reconciliation bill contains no provision on federal civilian locality pay. Therefore, the committee assumes that civilian locality pay will be implemented on January 1, 1994 as provided for under current law or by July 1, 1994 as provided for in the House bill.
>
> The committee also notes that under the pay freeze recommended by the administration, the comparability gap between private sector pay as measured by the employment cost index and military pay would widen to 14.5 percent. This would be the largest gap since the Congress equalized private sector and military pay by authorizing a 14.3 percent military pay raise for October 1, 1981 [in the Uniformed Services Pay Act of 1981, Public Law 97-60, 95 Stat. 989 (1981)].[75]
>
> The committee further notes that military personnel are operating at a higher tempo as our military downsizes. While the state of personnel readiness is high, there are signs of strain, such as the decline in the propensity of youth to serve in the military, and persistent shortages in certain skills that are also in demand in the private sector.
>
> In view of the foregoing, the committee believes that it would be fair and prudent to provide a pay raise for military personnel.[76]

In recommending its own version of a pay raise for military personnel for fiscal year 1994, the House Committee on Armed Services noted:

> The budget proposed a freeze on military pay during fiscal year 1994. The committee has identified offsets elsewhere within the defense budget request for fiscal year 1994 sufficient to fund the full 2.2 percent pay raise authorized under current law.
>
> The committee, therefore, recommends a 2.2 percent increase in basic pay, basic allowance for quarters and basic allowance for subsistence, for military personnel.[77]

For fiscal year 1995, the Clinton administration proposed a 1.6-percent military pay raise—one percentage point less than the 2.6-percent pay raise that would have been automatically authorized under the pay adjustment mechanism of 37 U.S.C. §1009. Noting that it had "identified offsets elsewhere within the defense budget request" made by the Clinton administration, the House Armed Services Committee

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[75] See text following footnote 31 of this chapter, above.
[76] S. Rep. No. 103-112 (Committee on Armed Services), at 151–52, accompanying S. 1298, 103d Cong. 1st sess. (1993).
[77] H.R. Rep. No. 103-200 (Committee on Armed Services), at 293, accompanying H.R. 2401, 103d Cong., 1st sess. (1993).

recommended the full 2.6-percent increase,[78] and the Senate Armed Services Committee agreed.[79] President Clinton approved the 2.6-percent military pay raise incorporated in the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §601(b), 108 Stat. 2663, 2779 (1994), on October 5, 1994.

For fiscal year 1996, Congress, although evidencing some concern about the level of the military pay raise urged by the Clinton administration, approved the administration's proposed 2.4-percent increase in basic pay rates. Referring to the "cumulative gap" between private-sector and military pay levels, the House Committee on National Security noted:

> This section [Section 601 of the National Defense Authorization Bill for Fiscal Year 1996, H.R. 1530, 104th Congress, 1st Session (1995)] would provide a 2.4 percent military pay raise as proposed in the President's budget. The Committee has reservations about this level of raise because it would institutionally sanction a one-half of one percent lower level of increase than is expected within the private sector. The committee expects the ongoing Eighth Quadrennial Review of Military Compensation (QRMC) to evaluate the importance of the cumulative gap that exists between military and private sector pay levels and to reassess the process for determining the level of pay increases. The committee looks forward to receiving the recommendations of the QRMC for changes that will protect readiness and the ability of the armed services to recruit and retain quality personnel.[80]

The President approved the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186 (1996), on February 12, 1996.[81] The pay raise incorporated in the act became effective retroactively to January 1, 1996.[82] The National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2538, provided for 3.0-percent increases in basic pay and subsistence and an increase of 4.6 percent in the BAQ. Thus, the year 1995 was the last year in which housing and subsistence increase rates both matched the increase rate of basic pay, and 1997 was the last year in which the increase rate in subsistence allowance matched the increase rate in basic pay.

In the report it issued in 1997, the Eighth Quadrennial Review of Military Compensation reviewed and modified the recommendations made by the Seventh QRMC for reform of the military pay tables, which had undergone only minor changes since 1949. (See Appendix III, Highlights of Major Structural Studies of Military Compensation.) In ensuing years, administrations and Congress showed greater awareness of disparities between military and civilian pay rates, of the need to reward particularly valuable segments of the military profession, and of inequities within the system of military basic pay. This increased awareness was stimulated by rapid growth in the civilian economy, which provided more alternatives to military service; post–Cold War manpower contraction, which complicated military personnel management; and a general public perception that post–Cold War military service was no longer as vital or as economically attractive as it

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[78] H.R. Rep. No. 103-499 (Committee on Armed Services), at 249, accompanying H.R. 4301, 103d Cong., 2d sess. (1994).

[79] S. Rep. No. 103-282 (Committee on Armed Services), at 193, and H.R. Rep. No. 103-701 (Committee of Conference), at 711, accompanying S. 2182, 103d Cong., 2d sess. (1994).

[80] H.R. Rep. No. 104-131 (Committee on National Security), at 229, accompanying H.R. 1530, 104th Cong., 1st sess. (1995). C*f*. S. Rep. No. 104-112 (Committee on Armed Services), at 253, accompanying S. 1026, 104th Cong., 1st sess. (1995); H.R. Rep. No. 104-406 (Committee of Conference), at 813, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); and H.R. Rep. No. 104-450 (Committee of Conference), at 803–4, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[81] As ultimately enacted, Section 601 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §601, 110 Stat. 186, 356 (1996), also incorporated a 2.4-percent increase in basic allowance for subsistence, §601(b), 110 Stat. 356, and a 5.2-percent increase in basic allowance for quarters, §601(c), 110 Stat. 356. For the reasons underlying the differentially greater increase in BAQ, see Chapter II.B.2 hereof, "Basic Allowance for Housing," below.

[82] See footnote 72 to this chapter, above.

had been in previous decades.[83] Recognizing that these factors were at work, in 1999 the House Committee on Armed Services noted that the restructuring of military pay tables would "reduce pay compression between grades, eliminate inconsistencies in the pay table, and increase incentives for promotion."[84]

This awareness brought about the recommendation of greater annual percentage increases in military pay than had been the practice in the mid-1990s. Section 601 of the National Defense Authorization Bill for 1997 ratified the Clinton administration's proposed basic pay increase of 3 percent, which was 0.7 percent higher than the Employment Cost Index (ECI). Increases passed by Congress in the defense authorization bills for FY 1998, 1999, and 2000 were 2.8 percent, 3.6 percent, and 4.8 percent, respectively. The 1998 figure matched the ECI guideline, but the 1999 increase was 0.5 percent above the guideline and the 2000 increase exceeded the guideline (and the level that the Clinton administration requested) by 0.4 percent.

Beginning in 2000, legislative changes began responding to the pay inequity issue. The National Defense Authorization Act for 2000 put forward a new formula that replaced the Section 1009 guideline for the years 2001–2006. Initially, the House and Senate disagreed on the terms of the new formula. The conference resolution accepted the Senate version, which set basic pay increases over the following five years at 0.5 percent above, rather than 0.5 percent below, the ECI, effectively adding 1 percent to each year's pay increase compared with the Section 1009 guideline. (The House version would have mandated an increase equal to the ECI percentage.) The new formula went into effect October 1, 2000. The purpose of this stipulation was to ensure that the gap between military pay and the pay of civilian government employees continued to close during the five-year period. Accordingly, the new National Defense Appropriation Act for FY 2001, Pub. L. No. 106-398, set the pay increase for FY 2001 at 3.7 percent, compared with the 2.7 percent increase that would have been mandated by Section 1009.

In 2000 and 2001, some personnel also received mid-year pay increases. The reform of the military pay tables, which took effect on July 1, 2000, in accordance with Section 601 of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, §601, 113 Stat. 644 (1999), introduced the concept of pay increases targeted to members at certain pay grades and with certain lengths of service. Targeting is to make pay increases more responsive to advancement in grade and less responsive to years in service. This policy in turn aims at encouraging members who show particular promise to remain in the military once they reach mid-career. The initial application of targeting in mid-2000 raised the basic pay of mid-career officers and enlisted members and resulted in a midyear increase that averaged 1.4 percent. Additional restructuring of the pay tables, prescribed by the FY 2001 national defense authorization law, resulted in a second round of mid-year targeting-based increases. Based solely on targeted increases for grades E-5 through E-7, basic pay increased by an average of 0.4 percent beginning July 1, 2001.

The national defense authorization legislation for 2002, 2003, and 2004 included full tables of adjusted pay rates by rank, targeting mid-level officers and mid- to senior-level noncommissioned officers for raises exceeding the average. Beginning in 2002, the targeting procedure made the overall basic pay increase percentage for a given year an average figure rather than one applying across-the-board to every grade. Including increases for targeted grades, the average increases for 2002 and 2003 were, respectively, 6.9 and 4.7 percent. The National Defense Authorization Bill for 2002, Pub. L. No. 107-107, 115 Stat. 1128 (2001), prescribed raises between 5.0 and 9.5 percent for the targeted pay levels. That legislation awarded the highest raises to mid-career officers at grade O-5 with 10 to 12 years of service and enlisted personnel in grades E-5 through E-9 with service time ranging from six to 26 years.

The maximum increases in the 2004 legislation were 6.25 percent, targeting mid-level officers, some warrant officers, and mid-level and senior enlisted personnel. At the other end of the scale, some grades received only a 2-percent increase for 2004. The National Defense Authorization Act for 2004, Pub.

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[83] Robert L. Goldich, "Military Pay and Benefits: Key Questions and Answers," *CRS Issue Brief for Congress,*, October 3, 2002, 2.

[84] H.R. Rep. No. 106-162 (Committee on Armed Forces), at 364 (accompanying H.R. 106—65), 106th Cong., 1st sess.

L. No. 108-136, 117 Stat. 1498 (2003), set out guidelines for basic pay increases in the years after 2006, in which average annual increases would match the ECI.

However, the goal of the plan that Congress set out in 2000 was to achieve parity between military and civilian pay by 2006. The House report on the National Defense Appropriations Act of 2003 put this goal, and possible future congressional policy on military pay, into perspective:

> The [House Armed Services] committee recognizes that, depending on the pay raises planned for the defense budgets through fiscal year 2006, the pay gap will likely not be eliminated during fiscal year 2006. The committee is inclined to extend beyond fiscal year 2006 the period of time that military pay raises are required to exceed the private sector pay raise rates. While such an action would signal military forces and their leaders that the committee is committed to restoring and maintaining parity between military and private sector pay raises, it may also prematurely set a goal that will ultimately be unnecessary.[85]

During the FY 2005–2009 period, no consensus existed on the issue of pay parity, as the White House and Congress disagreed on whether to provide an increment of 0.5 percent in addition to the ECI. Congress generally overruled the White House's preference for omitting the boost. However, President Barack Obama came out in favor of pay parity during his campaign for the presidency.[86]

In any case, the gap between average military and civilian pay decreased from a peak of 13.5 percent in 1999 to about 2.9 percent as of January 2009, reflecting nine consecutive years in which increases in military pay slightly outpaced those for civilian pay.[87] In 2007 Congressman Steny Hoyer (D–Maryland) advocated extending the same pay increases to civilian federal employees as to members of the military, so that "pay parity" at times became conflated with keeping civilian and military employees on the same trajectory.[88]

The National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, 120 Stat. 2083 (2006), mandated several adjustments to military basic pay. The act included a 2.2-percent increase in basic pay for all grades effective January 1, 2007. This increase matched the average increase in private sector wages in 2006. Additionally, the law provided for a second, "targeted" raise of up to 8.3 percent for some warrant officers and mid-level enlisted members. The 2.2-percent raise and the targeted rates effectively netted an average 2.7-percent raise for service members. Other provisions in the 2007 act were enacted in response to the recommendations of the 2006 Defense Advisory Committee on Military Compensation. Chief among these was the introduction of a new 40-year pay table as a replacement for the previous 30-year table. The new table added "longevity" steps for basic pay of officers in the ranks of O-6 through O-10, warrant officers in grades 4 and 5, and enlisted personnel at grades E-8 and E-9. The 2007 act also raised the cap on the maximum rate of basic pay for general and flag officer grades. Annual military pay had been capped at the maximum allowed under Level III of the Federal Executive Schedule, which sets pay for senior government employees based on their job responsibilities. As of January 1, 2007, the pay cap for uniformed service members at the O-9 and O-10 grades was increased from Level III to Level II of the Executive Schedule (from $162,500 in 2006 to $183,500 in 2007). This action was taken in part so that senior-grade officers would receive full longevity raises under the new pay table.[89]

The Tenth Quadrennial Review of Military Compensation (QRMC), which was released in February 2008, concluded that cash compensation is a faulty basis on which to compare private civilian and military compensation because it does not take into account various benefits and tax advantages enjoyed by the

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[85] H.R. Rep. No. 107-436 (House Armed Services Committee), accompanying HR 2586, 107th Cong., 2d sess. (2003).
[86] Rick Maze, "Obama's First Moves," *Air Force Times*, January 26, 2009, http://www.nexis.com.
[87] "Obama's First Moves."
[88] "Hoyer Reiterates Call for Pay Parity," States News Service, May 9, 2007. http://www.nexis.com.
[89] Tom Philpott, "New Military Pay Table Inspires Longer Careers," *Stars and Stripes*, February 8, 2007; "John Warner National Defense Authorization Act for Fiscal Year 2007, Section 602, "Increase in Maximum Rate of Basic Pay for General and Flag Officer Grades to Conform to Increase in Pay Cap for Senior Executive Service Personnel."

military.[90] The review proposed replacing the cash compensation benchmark with "military annual compensation," which encompasses not just cash compensation but also health care and retirement benefits as well as state and Social Security tax advantages. Therefore, rather than targeting cash compensation "comparable to the 70th percentile of compensation for civilians with similar education and experience," as the Ninth QRMC had done, the Tenth QRMC recommended setting military annual compensation at the 80th percentile of comparable civilian compensation.[91]

Monthly basic pay increased by 3.5 percent in FY 2005, 3.1 percent in FY 2006, 2.7 percent in FY 2007, 3.5 percent in FY 2008, and 3.9 percent in FY 2009 (see table, below).[92] During this period, only in FY 2007 were certain grades and lengths of service targeted for raises above the norm. In that year, the basic pay scale reflected the House Armed Services Committee's efforts to boost the pay of warrant officers and senior enlisted personnel selectively as of April 1, 2007.[93] The across-the-board 3.5-percent increase in FY 2005 was the first time in five years that each rank received an equal pay raise.[94]

Although the National Defense Authorization Act for 2000 had specified basic pay increases above the ECI for the period 2000–06, Congress continued to provide above-ECI basic pay increases each year through 2010. Monthly basic pay increased 3.5 percent in FY 2008, 3.9 percent in FY 2009, and 3.4 percent in FY 2010. Beginning in FY 2011, the fiscal climate in the country had shifted toward austerity, and the Congress and the Department both sought savings to reduce the size of the Defense budget. Although military compensation was largely protected, there was significant pressure to slow the growth of compensation. As a result, basic pay increases for 2011 through 2013 were set equal to the change in the ECI, with basic pay increasing by 1.4 percent in FY 2011, 1.6 percent in FY 2012, and 1.7 percent in FY 2013.

Under subsection 1009(e) of title 37, United States Code, the President has the authority to transmit to Congress an alternative pay plan in times of significant economic conditions affecting the general welfare, to set a basic pay increase other than the default set in section 1009. For the first time, at the end of August 2013, the President exercised his authority under subsection 1009(e) and set the basic pay increase for January 2014 at 1.0 percent. Absent the President's exercise of this authority, the basic pay increase in January 2014 would have been set equal to the change in the ECI at 1.8 percent.

Again for the 2015 and 2016 basic pay increases, the President exercised his authority and transmitted to the Congress an alternate pay plan setting the basic pay increases for 2015 at 1.0 percent and for 2016 at 1.6 percent. Absent the alternative pay plan, basic pay would have increased by 1.8 percent in 2015 and 2.1 percent in 2016. Congress allowed the portion of the President's alternate pay plan that applied to members in pay grades O-6 and below to take effect by not overriding it in the FY 2015 National Defense Authorization Act. However, Congress did override the portion of the alternate pay plan that applied to members in pay grades O-7 through O-10 by not allowing their rates of basic pay to increase. Furthermore, to ensure that members whose uncapped rates of basic pay (some O-9s and all O-10s) were already above the Executive Schedule Level II ceiling did not inadvertently receive a pay raise when the Level II ceiling rose, Congress specified that the Department would continue to apply the Executive Schedule Level II ceiling that was in effect during 2014 and during calendar year 2015. In the Fiscal Year 2016 National Defense Authorization

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[90] United States, Department of Defense, *Report of the Tenth Quadrennial Review of Military Compensation*, February 2008, xiv–xv, http://www.defenselink.mil/prhome/docs/Tenth_QRMC_Feb2008_Vol%20I.pdf.

[91] *Report of the Tenth Quadrennial Review of Military Compensation*, xv.

[92] Skye Jones, "More Money, Increased Benefits for 2005," US Department of Defense Information, January 26, 2005; "Pay hike, expanded military benefits among budget proposals," *Congressional Quarterly*, Federal Department and Agency Documents, Regulatory Intelligence Data, February 7, 2005; "Congress' Small Changes Improve Troops' Benefits," *Air Force Times*, January 16 2006; Jim Tice, "Army Makes Staying Pay; Pay-table Changes, Bonuses Aimed at Keeping Soldiers in Uniform," *Army Times*, December 18, 2006; Rick Maze, "Vetoed Defense Bill Altered to Protect Troops' Wallets; New Version Backdates Increases in Pay," *Air Force Times*, January 28, 2008, http://www.nexis.com.

[93] Robert L. Goldich, "Military Pay and Benefits: Key Questions and Answers," *CRS Issue Brief for Congress*, Washington, DC, October 3, 2002, 2.

[94] "More Money, Increased Benefits for 2005."

Act, Congress again overrode the portion of the alternative pay plan that applied to members in pay grades O-7 through O-10 by not increasing their rates of basic pay and again also specified that the Executive Schedule Level II ceiling from 2014 would continue to apply during calendar year 2016.[95]

The National Defense Authorization Act for Fiscal Year 2014 also amended 37 USC 204(c) "to provide additional means by which members of the National Guard called into federal service for a period of 30 days or less may become entitled to basic pay by including the date on which a member contacts their unit [in person] or through authorized telephonic or electronic means."[96] Previously the member's entitlement began on the date he or she appeared at the place of company rendezvous.

The present chapter, dealing with basic pay, has focused on how military personnel have been paid over the years and the process by which adjustments to basic pay have been made, not on how much military personnel have been paid. Innumerable adjustments have of course been made to military pay rates during the past 200-plus years.

Cost: The total costs[97] of basic compensation entitlements of active-duty and inactive-duty military personnel over the period 1972 to 2016, a comparison of military and civilian pay increases, and a comparison of military pay with the Employment Cost Index (ECI) and Consumer Price Index (CPI) for various years are set out in tables II-1A–C, below.

Table II-1A. Annual Cost of Basic Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	2,499,649	$14,285,318	356,653	$4,235,742	2,142,996	$10,049,576
1973	2,312,816	14,781,805	329,134	4,252,621	1,983,682	10,529,184
1974	2,193,758	15,107,667	309,464	4,331,118	1,884,294	10,776,549
1975	2,134,298	15,511,199	296,590	4,401,613	1,837,708	11,109,586
1976	2,085,345	15,862,712	283,709	4,444,735	1,801,636	11,417,977
1977	2,062,868	16,450,193	277,795	4,597,904	1,785,073	11,852,289
1978	2,047,321	17,291,863	273,594	4,802,028	1,773,727	12,489,835
1979	2,019,995	18,070,488	271,740	5,013,089	1,748,255	13,057,399
1980	2,020,270	19,380,320	274,098	5,376,250	1,746,172	14,004,070
1981	2,050,876	21,846,324	280,722	6,115,184	1,770,154	15,731,140
1982	2,087,700	25,611,894	288,268	7,190,584	1,799,432	18,421,310
1983	2,103,823	27,067,483	294,324	7,628,507	1,809,499	19,438,976
1984	2,120,180	28,298,528	300,676	8,052,546	1,819,504	20,245,982
1985	2,133,251	29,803,007	305,301	8,477,420	1,827,950	21,325,587
1986	2,141,060	31,209,344	310,008	8,955,996	1,831,052	22,253,348
1987	2,154,330	32,161,604	310,620	9,192,802	1,843,710	22,968,802

[95] Lawrence Kapp and Barbara Salazar Torreon, "Military Pay: Key Questions and Answers," CRS Report, January 20, 2015, 11-12; National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle A, Sec. 601, 129 Stat. 726, 836; Don J. Jansen, et. al., "FY 2016 National Defense Authorization Act: Selected Military Personnel Issues," CRS Report, December 17, 2015, 6.

[96] U.S. House of Representatives, Committee on Armed Services, "Legislative Text and Joint Explanatory Statement to Accompany H.R. 3304," Committee Print No. 2, 580 (2013), https://www.gpo.gov/fdsys/pkg/CPRT-113HPRT86280/pdf/CPRT-113HPRT86280.pdf; National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, Title VI, Subtitle A, Sec. 601, 127 Stat. 672, 779 (2013).

[97] Includes regular military compensation for active-duty personnel (cash elements only) and compensation for inactive-duty training for reserve forces personnel. See Chapter II.B., "Regular Military Compensation (RMC) and Basic Military Compensation (BMC)," and Chapter II.C.2., "Compensation for Inactive-Duty Training."

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1988	2,128,919	32,765,209	306,934	9,349,849	1,821,985	23,415,360
1989	2,110,591	33,678,993	303,617	9,594,551	1,806,974	24,084,442
1990	2,073,077	34,587,834	301,020	9,911,094	1,772,057	24,676,740
1991	2,128,798	37,438,853	310,734	10,744,377	1,818,064	26,694,476
1992	1,902,761	35,285,238	285,863	10,327,859	1,616,898	24,957,379
1993	1,738,951	33,720,929	264,710	9,949,070	1,474,241	23,771,859
1994	1,646,871	32,686,774	252,134	9,740,551	1,394,737	22,946,223
1995	1,552,393	31,777,658	241,805	9,575,478	1,310,588	22,202,180
1996	1,478,229	28,377,353	236,610	6,667,543	1,241,619	21,709,810
1997	1,443,099	31,300,391	231,633	9,678,592	1,211,466	21,621,799
1998	1,410,687	31,459,803	227,216	9,821,339	1,183,471	21,638,464
1999	1,375,344	31,694,636	222,341	9,888,640	1,153,003	21,805,996
2000	1,368,723	27,443,157	219,373	10,255,150	1,149,350	17,188,007
2001	1,374,997	34,465,624	218,038	10,675,491	1,156,959	23,790,133
2002	1,451,532	38,984,725	231,689	11,978,316	1,219,843	27,006,409
2003	1,569,889	41,682,713	251,309	13,625,684	1,318,580	28,057,029
2004	1,575,694	47,377,906	251,991	14,199,583	1,323,703	33,178,323
2005	1,547,791	48,085,850	250,297	14,535,167	1,297,494	33,550,683
2006	1,492,000	48,125,149	245,590	14,833,887	1,246,410	33,291,262
2007	1,471,665	48,465,239	243,120	15,160,316	1,228,545	33,304,923
2008	1,482,084	50,062,718	242,489	15,512,866	1,239,595	34,549,852
2009	1,484,468	52,652,588	245,222	16,373,561	1,239,246	36,279,027
2010	1,504,021	55,364,951	251,704	17,368,963	1,252,318	37,995,988
2011	1,505,673	56,569,020	255,972	17,957,604	1,249,701	38,611,416
2012	1,481,427	56,758,621	256,146	18,208,922	1,225,281	38,549,698
2013	1,439,322	55,675,414	246,211	17,917,337	1,193,110	37,758,076
2014	1,389,169	53,460,083	228,448	16,986,637	1,160,721	36,473,447
2015	1,311,049	50,821,433	214,189	16,076,927	1,096,861	34,744,505
2016[1]	1,484,468	52,652,588	245,222	16,373,561	1,239,246	36,279,027

[1] The figures for 2016 are estimates.

Source: Data for 2009–15 retrieved from the Defense Manpower Data Center (DMDC), https://www.dmdc.osd.mil/dmdcrs/.

Table II-1B. Comparison of Military and Civilian Pay Increases, 1945–2016

Year	CIVILIAN*		MILITARY				
	Average Pay Increase		Average Pay Increase				
	Classification Act Law	Pay Increase	Public Law	Basic Pay Increase	Housing Increase	Subsistence Increase	Total[1] Increase
1945	79-106	15.9%	---	---	---	---	---
1946	79-390	14.0%	79-474	23.7%	---	19.6%	18.8%
1948	80-900	11.0%	---	---	---	---	---
1949	81-429	4.0%	81-351	22.9%	0.6%	22.1%	19.2%
1951	82-201	10.0%	---	---	---	---	---
1952	---	---	82-346	4.0%	34.1%	14.2%	8.9%
1955	84-94	7.5%	84-20	10.0%	---	-5.1%	7.1%
1958	85-462	10.0%	85-422	8.3%	---	---	6.4%
1960	86-568	7.7%	---	---	---	---	---
1962	87-793(I)	5.5%	87-531	---	19.8%	-2.1%	2.7%
1963	87-793(II)	4.1%	88-132	14.2%	---	---	10.8%
1964	88-426	4.2%	88-422	2.3%	---	0.5%	1.9%
1965	89-301	3.6%	89-132	10.43%	---	1.6%	8.3%
1966	89-504	2.9%	89-501	3.2%	---	3.5%	2.8%
1967	90-206	4.5%	90-207	5.6%	1.2%	9.4%	5.2%
1968	90-206	4.9%	90-207	6.9%	---	1.3%	5.2%
1969	90-206	9.1%	90-207	12.6%	---	---	9.3%
1970	91-231	6.0%	90-207	8.1%	---	4.5%	6.6%
1971	91-656	5.96%	90-207	7.9%	---	7.9%	6.8%
			92-129	11.6%	34.5%	---	14.2%
1972	92-210	5.5%	90-207	7.21%	---	3.4%	5.4%
1972	91-656	5.1%	90-207	6.69%	---	11.0%	6.0%
1973	91-656	---	90-207	5.52%	5.5%	5.52%	5.52%
1974	91-656	---	93-419	5.00%	5.0%	5.00%	5.00%
1975	91-656	---	93-419	3.62%	10.7%	4.83%	4.83%
1976	91-656	---	94-361	6.20%	11.0%	7.05%	7.05%
1977	91-656	---	94-361	5.50%	5.5%	5.50%	5.50%
1978	91-656	---	93-419	7.02%	7.0%	7.02%	7.02%
1979	91-656	---	93-419	---	10.0%	---	0.87%
1980	---	---	96-343	---	---	10.0%	0.87%
1980	91-656	9.12%	96-342	11.7%	11.7%	11.7%	11.7%
1981	91-656	4.80%	97-60	14.3%	14.3%	14.3%	14.30%
1982	91-656			4.0%	4.0%	4.0%	4.00%
1983	---	---	---	---	---	---	---
1984	91-656	4.0%	98-94	4.0%	4.0%	4.0%	4.00%
1985	91-656	3.5%	98-525	4.0%	4.0%	4.0%	4.00%
			99-145	3.0%	3.0%	3.0%	3.00%
1987	91-656	3.0%	99-661	3.0%	3.0%	3.0%	3.00%
1988	91-656	2.0%	100-180	2.0%	2.0%	2.0%	2.00%
1989	91-656	4.1%	100-456	4.1%	7.0%	4.1%	4.40%
1990	91-656	3.6%	101-189	3.6%	3.6%	3.6%	3.60%
1991	101-509	4.1%	101-510	4.1%	4.1%	4.1%	4.10%

Year	CIVILIAN*		MILITARY				
	Average Pay Increase		Average Pay Increase				
	Classification Act Law	Pay Increase	Public Law	Basic Pay Increase	Housing Increase	Subsistence Increase	Total(1) Increase
1992	101-509	4.2%	102-190	4.2%	4.2%	4.2%	4.20%
1993	101-509	3.7%	102-484	3.7%	3.7%	3.7%	3.70%
1994	101-509	2.2%	103-160	2.2%	2.2%	2.2%	2.20%
1995	101-509	2.6%	103-337	2.6%	2.6%	2.6%	2.60%
1996	101-509	2.4%	104-106	2.4%	5.2%	2.4%	28.8%
1997	101-509	3.0%	104-201	3.0%	4.4%	2.9%	3.3%
1998	101-509	2.8%	105-85	2.8%	1.0%	0.5%	2.2%
1999	101-509	3.6%	105-261	3.6%	3.4%	1.4%	3.4%
2000	101-509	4.8%	106-65	6.2%	4.8%	1.1%	5.5%
2001	101-509	3.7%	106-398	4.1%	16.2%	1.1%	6.8%
2002	101-509	4.6%	107-107	6.9%	9.9%	5.1%	7.5%
2003	101-509	4.1%	107-314	4.7%	16.4%	0.5%	7.6%
2004	101-509	4.1%	108-136	4.2%	2.9%	4.8%	3.6%
2005	101-509	3.5%	108-375	3.5%	4.4%	4.9%	3.5%
2006	101-509	3.1%	109-163	3.1%	5.9%	1.9%	3.7%
2007-Jan	101-509	2.2%	109-364	2.2%	3.5%	2.8%	2.6%
2007-Apr	101-509	0.5%	109-364	0.5%	0.0%	0.0%	0.3%
2008	101-509	3.5%	110-181	3.5%	7.3%	15.7%	4.4%
2009	101-509	3.9%	110-417	3.9%	6.9%	0.0%	4.5%
2010	101-509	2.0%	111-84	3.4%	6.0%	5.0%	---
2011	101-509	0.0%	111-383	1.4%	1.1%	0.4%	---
2012	101-509	0.0%	112-81	1.6%	2.0%	7.2%	---
2013	101-509	0.0%	112-239	1.7%	3.8%	1.1%	---
2014	101-509	1.0%	113-66	1.0%	5.0%	1.5%	---
2015	101-509	1.0%	113-291	1.0%	0.5%	2.9%	---
2016	101-509	1.3%	114-92	1.3%	3.4%	0.1%	---

* Note: Locality pay was added in 1993. The column represents the General Schedule (GS) increase plus the average increase in locality pay.

Note: (1) The “Total Increase” column for military pay reflects the weighted average increase in basic pay, basic allowance for housing, and basic allowance for subsistence.

** An adjustment under this section shall have the force and effect of law – Released October 11, 2005.

--- No data available.

Sources: Department of Defense new releases, Defense Finance and Accounting Services (DFAS), and https://www.congress.gov.

Table II-1C. Military Pay in Comparison with ECI and CPI, 1952–2015

Effective Year	Average Total[1] Increase	Average Basic Pay Raise	CPI[2] Increase Sep to Sep prior year	ECI[3] Increase Sep to Sep prior year	Cumulative Increase in Basic Pay Oct 82 Base	Cumulative Increase in Total Pay Oct 82 Base	Cumulative Increase in CPI[4] Oct 82 Base	Cumulative Increase in ECI Oct 82 Base
1-May-1952	8.9%	4.0%	---	---	---	---	---	---
1-Apr-1955	7.1	10.0	---	---	---	---	---	---
1-Jun-1958	6.4	8.3	---	---	---	---	---	---
1-Jan-1963	2.7	0	---	---	---	---	---	---
1-Oct-1963	10.8	14.2	---	---	---	---	---	---
1-Sep-1964	1.9	2.3	0.97%	---	---	---	---	---
1-Sep-1965	8.3	10.4	1.61	---	---	---	---	---
1-Jul-1966	2.8	3.2	2.85	---	---	---	---	---
1-Oct-1967	5.2	5.6	3.69	---	---	---	---	---
1-Jul-1968	5.2	6.9	3.56	---	---	---	---	---
1-Jul-1969	9.3	12.6	5.44	---	---	---	---	---
1-Jan-1970	6.6	8.1	2.72	---	---	---	---	---
1-Jan-1971	6.8	7.9	5.29	---	---	---	---	---
14-Nov-1971	14.2	11.6	2.76	---	---	---	---	---
1-Jan-1972	5.4	7.2	0.49	---	---	---	---	---
1-Oct-1972	6.0	6.7	2.92	---	---	---	---	---
1-Oct-1973	7.3	6.2	7.80	---	---	---	---	---
1-Oct-1974	5.5	5.5	12.06	---	---	---	---	---
1-Oct-1975	5.0	5.0	7.44	---	---	---	---	---
1-Oct-1976	4.8	3.6	5.46	---	---	---	---	---
1-Oct-1977	7.1	6.2	6.39	---	---	---	---	---
1-Oct-1978	5.5	5.5	8.93	---	---	---	---	---
1-Oct-1979	7.0	7.02	12.07	---	---	---	---	---
1-Oct-1980	12.7	11.7	12.77	---	---	---	---	---
1-Oct-1981	14.3	14.3	11.0	---	---	---	---	---
1-Oct-1982	4	4	4.9	7.0%	0.04%	0.04%	0.05%	0.07%
1-Jan-1984	4	4	2.8	4.9	0.08	0.08	0.08	0.12
1-Jan-1985	4	4	4.3	4.5	0.12	0.12	0.12	0.17
1-Oct-1985	3	3	3.2	4.9	0.15	0.15	0.15	0.22
1-Jan-1987	3	3	1.8	3.5	0.18	0.18	0.17	0.26
1-Jan-1988	2	2	4.3	3.4	0.20	0.20	0.21	0.29
1-Jan-1989	4.1	4.1	4.2	4.0	0.24	0.24	0.26	0.33
1-Jan-1990	3.6	3.6	4.4	4.6	0.28	0.28	0.30	0.38

1-Jan-1991	4.1	4.1	6.2	4.4	0.32	0.32	0.36	0.42
1-Jan-1992	4.2	4.2	3.4	3.7	0.36	0.36	0.40	0.46
1-Jan-1993	3.7	3.7	3	2.8	0.40	0.40	0.43	0.49
1-Jan-1994	2.6	2.2	2.8	3.0	0.42	0.42	0.45	0.52
1-Jan-1995	2.6	2.6	3	2.9	0.45	0.45	0.48	0.55
1-Jan-1996	2.9	2.4	2.5	2.8	0.47	0.48	0.51	0.58
1-Jan-1997	3.2	3	3	3.2	0.50	0.51	0.54	0.61
1-Jan-1998	2.2	2.8	2.2	3.5	0.53	0.53	0.56	0.65
1-Jan-1999	3.4	3.6	1.4	3.9	0.56	0.57	0.58	0.69
1-Jan-2000	4.1	4.8	2.7	3.4	0.61	0.61	0.60	0.72
1-Jul-2000	1.0	1.4	---	---	0.63	0.62	0.60	0.72
1-Jan-2001	6.4	3.7	3.5	4.0	0.66	0.68	0.64	0.76
1-Jul-2001	0.3	0.4	---	---	0.67	0.68	0.64	0.76
1-Jan-2002	7.5	6.9	2.6	3.6	0.74	0.76	0.66	0.80
1-Jan-2003	7.6	4.7	1.5	3.2	0.78	0.84	0.68	0.83
1-Jan-2004	3.4	4.2	2.3	2.9	0.82	0.87	0.70	0.86
1-Jan-2005	5.9	3.5	2.5	2.4	0.86	0.93	0.73	0.88
1-Jan-2006	3.8	3.1	4.7	2.3	0.89	0.97	0.77	0.90
1-Jan-2007	4.5	2.2	2.1	3.2	0.91	1.01	0.79	0.93
1-Apr-2007	0.3	0.5	---	---	0.92	1.01	0.79	0.93
1-Jan-2008	3.4	3.5	2.8	3.3	0.95	1.05	0.82	0.96
1-Jan-2009	4.2	3.9	4.9	3.1	0.99	1.09	0.87	0.99
1-Jan-2010	---	3.4	-1.3	1.4	1.02	---	0.86	1.01
1-Jan-2011	---	1.4	1.1	1.4	1.03	---	0.87	1.03
1-Jan-2012	---	1.6	3.9	1.6	1.05	---	0.91	1.05
1-Jan-2013	---	1.7	2.0	1.7	1.09	---	0.93	1.07
1-Jan-2014	---	1.0	1.2	1.6	1.10	---	0.94	1.09
1-Jan-2015	---	1.0	1.7	2.1	1.11	---	0.96	1.11

[1] Weighted average of basic pay, quarters, and subsistence increases, including administrative adjustments to commuted and leave ration rates.
[2] Consumer Price Index for Urban Consumers, measured from September to September (not seasonally adjusted).
[3] Employment Cost Index for Private Industry, Civilian Workers, Wages and Salaries (not seasonally adjusted).
[4] Consumer Price Index for Urban Consumers, measured from January to January.

--- No data available.
Sources: U.S. Bureau of Labor Statistics, "Consumer Price Index Detailed Reports," multiple years, and U.S. Bureau of Labor Statistics, *Employment Cost Index Historical Listing: Volume V*, April 2016, 33, http://www.bls.gov/web/eci/ecicois.pdf.

The following pages set out the schedule of basic pay rates (monthly) by pay grade and longevity, as they have changed from the mid-twentieth century to 2015.

Table II-ID. Basic Pay Schedule, Historical Data, Selected Years, 1958–2015

Pay Grade O-10																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jun-58	1200.00	1250.00	1250.00	1250.00	1250.00	1300.00	1300.00	1400.00	1400.00	1500.00	1500.00	1600.00	1600.00	1600.00	1700.00	1700.00
Oct-63	1200.00	1315.00	1315.00	1315.00	1315.00	1365.00	1365.00	1470.00	1470.00	1575.00	1575.00	1680.00	1680.00	1680.00	1785.00	1785.00
Sep-64	1302.00	1347.90	1347.20	1347.90	1347.90	1399.20	1399.20	1506.90	1506.90	1614.30	1614.30	1722.00	1722.00	1722.00	1829.70	1829.70
Sep-65	1380.00	1428.90	1428.90	1428.90	1428.90	1483.20	1483.20	1597.20	1597.20	1711.20	1711.20	1825.20	1825.20	1825.20	1939.50	1939.50
Jul-66	1424.10	1474.50	1474.50	1474.50	1474.50	1530.60	1530.60	1648.20	1648.20	1766.10	1766.10	1883.70	1883.70	1883.70	2001.60	2001.60
Oct-67	1503.90	1557.00	1557.00	1557.00	1557.00	1616.40	1616.40	1740.60	1740.60	1865.10	1865.10	1989.30	1989.30	1989.30	2113.80	2113.80
Jul-68	1607.70	1664.40	1664.40	1664.40	1664.40	1728.00	1728.00	1860.60	1860.60	1993.80	1993.80	2126.70	2126.70	2126.70	2259.60	2259.60
Jul-69	1810.20	1874.10	1874.10	1874.10	1874.10	1945.80	1945.80	2094.90	2094.90	2244.90	2244.90	2394.60	2394.60	2394.60	2544.30	2544.30
Jan-70	1956.90	2025.90	2025.90	2025.90	2025.90	2103.30	2103.30	2264.70	2264.70	2426.70	2426.70	2588.70	2588.70	2588.70	2750.40	2750.40
Jan-71	2111.40	2185.80	2185.80	2185.80	2185.80	2269.50	2269.50	2443.50	2443.50	2618.40	2618.40	2793.30	2793.30	2793.30	2967.60	2967.60
Nov-71	2111.40	2185.80	2185.80	2185.80	2185.80	2269.50	2269.50	2443.50	2443.50	2618.40	2618.40	2793.30	2793.30	2793.30	2967.60	2967.60
Jan-72	2263.50	2343.30	2343.30	2343.30	2343.30	2433.00	2433.00	2619.60	2619.60	2807.10	2807.10	2994.60	2994.60	2994.60	3000.00	3000.00
Oct-72	2415.00	2500.20	2500.20	2500.20	2500.20	2595.90	2595.90	2794.80	2794.80	2994.90	2994.90	3000.00	3000.00	3000.00	3000.00	3000.00
Oct-73	2564.10	2654.40	2654.40	2654.40	2654.40	2756.10	2756.10	2967.30	2967.30	3000.00	3000.00	3000.00	3000.00	3000.00	3000.00	3000.00
Oct-74	2705.70	2800.80	2800.80	2800.80	2800.80	2908.20	2908.20	3000.00	3000.00	3000.00	3000.00	3000.00	3000.00	3000.00	3000.00	3000.00
Oct-75	2841.00	2940.90	2940.90	2940.90	2940.90	3053.70	3053.70	3150.00	3150.00	3150.00	3150.00	3150.00	3150.00	3150.00	3150.00	3150.00
Oct-76	2943.90	3047.40	3047.40	3047.40	3047.40	3164.10	3164.10	3300.00	3300.00	3300.00	3300.00	3300.00	3300.00	3300.00	3300.00	3300.00
Oct-77	3126.30	3236.40	3236.40	3236.40	3236.40	3360.30	3360.30	3618.00	3618.00	3876.60	3876.60	3958.20	3958.20	3958.20	3958.20	3958.20
Oct-78	3298.20	3414.30	3414.30	3414.30	3414.30	3545.10	3545.10	3816.90	3816.90	3958.20	3958.20	3958.20	3958.20	3958.20	3958.20	3958.20
Oct-79	3529.80	3654.00	3654.00	3654.00	3654.00	3794.10	3794.10	4084.80	4084.80	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00
Oct-80	3942.90	4081.50	4081.50	4081.50	4081.50	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00
Oct-81	4506.60	4665.30	4665.30	4665.30	4665.30	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60

Pay Grade O-10																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-82	4686.90	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60
Jan-84	4874.40	5046.00	5046.00	5046.00	5046.00	5239.50	5239.50	5533.20	5533.20	5533.20	5533.20	5533.20	5533.20	5533.20	5533.20	5533.20
Jan-85	5069.40	5247.90	5247.90	5247.90	5247.90	5449.20	5449.20	5866.20	5866.20	6285.90	6285.90	6706.50	6706.50	6706.50	7124.70	7124.70
Oct-85	5221.50	5405.40	5405.40	5405.40	5405.40	5612.70	5612.70	6042.30	6042.30	6474.60	6474.60	6907.80	6907.80	6907.80	7338.30	7338.30
Jan-87	5378.10	5567.70	5567.70	5567.70	5567.70	5781.00	5781.00	6223.50	6223.50	6668.70	6668.70	7115.10	7115.10	7115.10	7558.50	7558.50
Jan-88	5485.80	5679.00	5679.00	5679.00	5679.00	5896.50	5896.50	6223.50	6223.50	6668.70	6668.70	7115.10	7115.10	7115.10	7558.50	7558.50
Jan-89	5710.80	5911.80	5911.80	5911.80	5911.80	6138.30	6138.30	6478.80	6478.80	6875.10	6875.10	7115.10	7115.10	7115.10	7558.50	7558.50
Jan-90	5916.30	6124.50	6124.50	6124.50	6124.50	6359.40	6359.40	6711.90	6711.90	7191.90	7191.90	7673.40	7673.40	7673.40	8151.60	8151.60
Jan-91	6159.00	6375.60	6375.60	6375.60	6375.60	6620.10	6620.10	6987.00	6987.00	7486.80	7486.80	7988.10	7988.10	7988.10	8485.80	8485.80
Jan-92	6417.60	6643.50	6643.50	6643.50	6643.50	6898.20	6898.20	7280.40	7280.40	7801.20	7801.20	8323.50	8323.50	8323.50	8733.30	8733.30
Jan-93	6655.20	6889.20	6889.20	6889.20	6889.20	7153.50	7153.50	7549.80	7549.80	8089.80	8089.80	8631.60	8631.60	8631.60	9016.80	9016.80
Jan-94	6801.60	7040.70	7040.70	7040.70	7040.70	7311.00	7311.00	7716.00	7716.00	8267.70	8267.70	8821.50	8821.50	8821.50	9016.80	9016.80
Jan-95	6978.30	7223.70	7223.70	7223.70	7223.70	7501.20	7501.20	7916.70	7916.70	8482.80	8482.80	9016.80	9016.80	9016.80	9016.80	9016.80
Jan-96	7145.70	7397.10	7397.10	7397.10	7397.10	7681.20	7681.20	8106.60	8106.60	8686.50	8686.50	9016.80	9016.80	9016.80	9016.80	9016.80
Jan-97	7360.20	7619.10	7619.10	7619.10	7619.10	7911.60	7911.60	8349.90	8349.90	8947.20	8947.20	9016.80	9016.80	9016.80	9016.80	9016.80
Jan-98	7566.30	7832.40	7832.40	7832.40	7832.40	8133.00	8133.00	8583.60	8583.60	9197.70	9197.70	9225.00	9225.00	9225.00	9225.00	9225.00
Jan-99	7838.70	8114.40	8114.40	8114.40	8114.40	8425.80	8425.80	8892.60	8892.60	9225.00	9225.00	9225.00	9225.00	9225.00	9225.00	9225.00
Jan-00	8214.90	8503.80	8503.80	8503.80	8503.80	8830.20	8830.20	9319.50	9319.50	9986.40	9986.40	10655.10	10655.10	10655.10	10850.10	10850.10
Jul-00												10655.10	10707.60	10850.10	10850.10	10850.10
Jan-01												11049.30	11103.90	11141.70	11141.70	11141.70
Jul-01												11049.30	11103.90	11141.70	11141.70	11141.70
Jan-02												11516.70	11516.70	11516.70	11516.70	11516.70
Jan-03												11874.90	11874.90	11874.90	11874.90	11874.90
Jan-04												12133.20	12133.20	12133.20	12133.20	12133.20
Jan-05												12133.20	12133.20	12133.20	12133.20	12133.20

Pay Grade O-10																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jan-06												12666.60	12666.60	12666.60	12666.60	12666.60
Jan-07												13659.00	13725.90	14000.10	14000.10	14000.10
Jan-08												14137.20	14206.20	14349.90	14349.90	14349.90
Jan-09												14688.60	14750.10	14750.10	14750.10	14750.10
Jan-10												14975.10	14975.10	14975.10	14975.10	14975.10
Jan-11												14975.10	14975.10	14975.10	14975.10	14975.10
Jan-12												14975.10	14975.10	14975.10	14975.10	14975.10
Jan-13												14975.10	14975.10	14975.10	14975.10	14975.10
Jan-14												15125.10	15125.10	15125.10	15125.10	15125.10
Jan-15												15125.10	15125.10	15125.10	15125.10	15125.10

Pay Grade O-9																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jun-58	1063.30	1100.00	1122.00	1122.00	1122.00	1150.00	1150.00	1200.00	1200.00	1300.00	1300.00	1400.00	1400.00	1400.00	1500.00	1500.00
Oct-63	1063.30	1155.00	1180.00	1180.00	1180.00	1210.00	1210.00	1260.00	1260.00	1365.00	1365.00	1470.00	1470.00	1470.00	1575.00	1575.00
Sep-64	1153.80	1183.80	1209.60	1209.60	1209.60	1240.20	1240.20	1291.50	1291.50	1399.20	1399.20	1506.90	1506.90	1506.90	1614.30	1614.30
Sep-65	1223.10	1254.90	1282.20	1282.20	1282.20	1314.60	1314.60	1368.90	1368.90	1483.20	1483.20	1597.20	1597.20	1597.20	1711.20	1711.20
Jul-66	1262.10	1295.10	1323.30	1323.30	1323.30	1356.60	1356.60	1412.70	1412.70	1530.60	1530.60	1648.20	1648.20	1648.20	1766.10	1766.10
Oct-67	1332.90	1367.70	1397.40	1397.40	1397.40	1432.50	1432.50	1491.90	1491.90	1616.40	1616.40	1740.60	1740.60	1740.60	1865.10	1856.10
Jul-68	1425.00	1462.2	1493.70	1493.70	1493.70	1531.20	1531.20	1594.80	1594.80	1728.00	1728.00	1860.60	1860.60	1860.60	1933.80	1933.80
Jul-69	1604.40	1646.40	1681.80	1681.80	1681.80	1724.10	1724.10	1795.80	1795.80	1945.80	1945.80	2094.90	2094.90	2094.90	2244.90	2244.90
Jan-70	1734.30	1779.90	1818.00	1818.00	1863.90	1863.90	1941.30	1941.30	2103.30	2103.30	2103.30	2264.70	2264.70	2264.70	2426.70	2426.70

Pay Grade O-9																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-71	1871.40	1920.6	1961.70	1961.70	1961.70	2011.20	2011.20	2094.60	2094.60	2269.50	2269.50	2443.50	2443.50	2443.50	2618.40	2618.40
Nov-71	1871.40	1920.6	1961.70	1961.70	1961.70	2011.20	2011.20	2094.60	2094.60	2269.50	2269.50	2443.50	2443.50	2443.50	2618.40	2618.40
Jan-72	2006.40	2059.20	2103.00	2103.00	2103.00	2156.10	2156.10	2245.50	2245.50	2433.00	2433.00	2619.60	2619.60	2619.60	2807.10	2807.10
Oct-72	2140.50	2196.90	2243.70	2243.70	2243.70	2300.40	2300.40	2395.80	2395.80	2595.90	2595.90	2794.80	2794.80	2794.80	2994.90	2994.90
Oct-73	2272.50	2332.50	2382.00	2382.00	2382.00	2442.30	2442.30	2543.70	2543.70	2756.10	2756.10	2967.30	2967.30	2967.30	3000.00	3000.00
Oct-74	2397.90	2461.20	2513.40	2513.40	2513.40	2577.00	2577.00	2684.10	2684.10	2908.20	2908.20	3000.00	3000.00	3000.00	3000.00	3000.00
Oct-75	2517.90	2584.20	2639.10	2639.10	2639.10	2706.00	2706.00	2818.20	2818.20	3053.70	3053.70	3150.00	3150.00	3150.00	3150.00	3150.00
Oct-76	2609.10	2677.80	2734.50	2734.50	2734.50	3804.10	2804.10	2920.20	2920.20	3164.10	3164.10	3300.00	3300.00	3300.00	3300.00	3300.00
Oct-77	2770.80	2843.70	2904.00	2904.00	2904.00	2978.10	2978.10	3101.40	3101.40	3360.30	3360.30	3618.00	3618.00	3618.00	3876.60	3876.60
Oct-78	2923.20	3000.00	3063.60	3063.60	3063.60	3141.90	3141.90	3272.10	3272.10	3545.10	3545.10	3816.90	3816.90	3816.90	3958.20	3958.20
Oct-79	3128.40	3210.60	3278.70	3278.70	3278.70	3362.40	3362.40	3501.90	3501.90	3794.10	3794.10	4084.80	4084.80	4084.80	4176.00	4176.00
Oct-80	3494.40	3586.20	3662.40	3662.40	3662.40	3755.70	3755.70	3911.70	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00	4176.00
Oct-81	3994.20	4098.90	4186.20	4186.20	4186.20	4292.70	4292.70	4471.20	4471.20	4844.10	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60
Oct-82	4154.10	4263.00	4353.60	4353.60	4353.60	4464.30	4464.30	4650.00	4650.00	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60
Jan-84	5320.30	4433.40	4527.60	4527.60	4527.60	4642.80	4642.80	4836.00	4836.00	5239.50	5239.50	5533.20	5533.20	5533.20	5533.20	5533.20
Jan-85	4493.10	4610.70	4708.80	4708.80	4708.80	4828.50	4828.50	5029.50	5029.50	5449.20	5449.20	5866.20	5866.20	5866.20	6285.90	6285.90
Oct-85	4627.80	4749.00	4850.10	4850.10	4850.10	4973.40	4973.40	5180.40	5180.40	5612.70	5612.70	6042.30	6042.30	6042.30	6474.60	6474.60
Jan-87	4766.70	4891.50	4995.60	4995.60	4995.60	5122.50	5122.50	5335.80	5335.80	5781.00	5781.00	6223.50	6223.50	6223.50	6668.70	6668.70
Jan-88	4862.10	4989.30	5095.50	5095.50	5095.50	5225.10	5225.10	5442.60	5442.60	5896.50	5896.50	6223.50	6223.50	6223.50	6668.70	6668.70
Jan-89	5061.30	5193.90	5304.30	5304.30	5304.30	5439.30	5439.30	5665.80	5665.80	6138.30	6138.30	6478.80	6478.80	6478.80	6478.80	6875.10
Jan-90	5243.40	5380.80	5495.40	5495.40	5495.40	5635.20	5635.20	5869.80	5869.80	6359.40	6359.40	6711.90	6711.90	6711.90	7191.90	7191.90
Jan-91	5485.50	5601.30	5720.70	5720.70	5720.70	5866.20	5866.20	6110.40	6110.40	6620.10	6620.10	6987.00	6987.00	6987.00	7486.80	7486.80
Jan-92	5687.70	5836.50	5961.00	5961.00	5961.00	6112.50	6112.50	6366.90	6366.90	6898.20	6898.20	7280.40	7280.40	7280.40	7801.20	7801.20
Jan-93	5898.00	6052.50	6181.50	6181.50	6181.50	6338.70	6338.70	6602.40	6602.40	7153.50	7153.50	7549.80	7549.80	7549.80	8089.80	8089.80
Jan-94	6027.90	6185.70	6317.40	6317.40	6317.40	6478.20	6478.20	8747.60	6747.60	7311.00	7311.00	7716.00	7716.00	7716.00	7716.00	8267.70

Pay Grade O-9																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-95	6184.50	6346.50	6481.80	6481.80	6481.80	6646.50	6646.50	6923.10	6923.10	7501.20	7501.20	7916.70	7916.70	7916.70	8482.80	8482.80
Jan-96	6333.00	6498.90	6637.50	6637.50	6637.50	6806.10	6806.10	7089.30	7089.30	7681.20	7681.20	8106.60	8106.60	8106.60	8686.50	8686.50
Jan-97	6522.90	6693.90	6836.70	6836.70	6836.70	7010.40	7010.40	7302.00	7302.00	7911.60	7911.60	8349.90	8349.90	8349.90	8947.20	1575.00
Jan-98	6705.60	6881.40	7028.10	7028.10	7028.10	7206.60	7206.60	7506.60	7506.60	8133.00	8133.00	8583.60	8583.60	8583.60	9197.70	1614.30
Jan-99	6947.10	7129.20	7281.00	7281.00	7281.00	7466.10	7466.10	7776.90	7776.90	8425.80	8425.80	8892.60	8892.60	8892.60	9225.00	1711.20
Jan-00	7280.70	7471.50	7630.50	7630.50	7630.50	7824.60	7824.60	8150.10	8150.10	8830.20	8830.20	9319.50	9319.50	9319.50	9986.40	1766.10
Jul-00												9319.50	9453.60	9647.70	9986.40	1856.10
Jan-01												9664.20	9803.40	10004.70	10356.00	1933.80
Jul-01												9664.20	9803.40	10004.70	10356.00	2244.90
Jan-02												10147.50	10293.60	10504.80	10873.80	2426.70
Jan-03												10563.60	10715.70	10935.60	11319.60	2618.40
Jan-04												10954.50	11112.30	11340.30	11738.40	2618.40
Jan-05												11337.90	11501.10	11737.20	12149.10	2807.10
Jan-06												11689.50	11857.50	12101.10	12525.60	2994.90
Jan-07												11946.60	12118.50	12367.20	12801.30	13441.50
Jan-08												12364.80	12542.70	12800.10	13249.20	13911.90
Jan-09												12846.90	13032.00	13299.30	13765.80	14454.60
Jan-10												13283.70	13475.10	13751.40	14233.80	14946.00
Jan-11												13469.70	13663.80	13944.00	14433.00	14975.10
Jan-12												13685.10	13882.50	14167.20	14664.00	14975.10
Jan-13												13917.60	14118.60	14408.10	14913.30	14975.10
Jan-14												14056.80	14259.90	14552.10	15062.40	15125.10
Jan-15												14056.80	14259.90	14552.10	15062.40	15125.10

Pay Grade O-8																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-22	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67
Jun-42	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67	666.67
Jul-46	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33	733.33
Oct-49	926.25	926.25	926.25	926.25	926.25	926.25	926.25	926.25	926.25	926.25	926.25	926.25	926.25	926.25	926.25	954.75
May-52	963.30	963.30	963.30	963.30	963.30	963.30	963.30	963.30	963.30	963.30	963.30	963.30	963.30	963.30	963.30	992.94
Apr-55	963.30	963.30	1021.80	1021.80	1021.80	1021.80	1021.80	1021.80	1021.80	1021.80	1021.80	1021.80	1021.80	1012.80	1021.80	1076.40
Jun-58	963.30	1000.00	1022.00	1022.00	1022.00	1100.00	1100.00	1150.00	1150.00	1200.00	1250.00	1300.00	1350.00	1350.00	1350.00	1350.00
Oct-63	963.30	1050.00	1075.00	1075.00	1075.00	1155.00	1155.00	1210.00	1210.00	1260.00	1315.00	1365.00	1420.00	1420.00	1420.00	1420.00
Sep-64	1045.20	1076.40	1101.90	1101.90	1101.90	1183.80	1183.80	1240.20	1240.20	1291.50	1347.90	1399.20	1455.60	1455.60	1455.60	1455.60
Sep-65	1107.90	1140.90	1167.90	1167.90	1167.90	1254.90	1254.90	1314.60	1314.60	1368.90	1428.90	1483.20	1542.90	1542.90	1542.90	1542.90
Jul-66	1143.30	1177.50	1205.40	1205.40	1205.40	1295.10	1295.10	1356.60	1356.60	1412.70	1474.50	1530.60	1592.40	1542.90	1592.40	1594.40
Oct-67	1207.20	1243.50	1272.90	1272.90	1272.90	1367.70	1367.70	1432.50	1432.50	1491.90	1557.00	1616.40	1681.50	1681.50	1681.50	1681.50
Jul-68	1290.60	1329.30	1360.80	1360.80	1360.80	1462.20	1462.20	1531.20	1531.20	1594.80	1664.40	1728.00	1797.60	1797.60	1797.60	1797.60
Jul-69	1453.20	1496.70	1532.40	1532.40	1646.40	1646.40	1724.10	1724.10	1795.80	1874.10	1945.80	2024.10	2024.10	2024.10	2024.10	2024.10
Jan-70	1570.80	1617.90	1656.60	1656.60	1656.60	1779.90	1779.90	1863.90	1863.90	1941.30	2025.90	2103.30	2188.20	2118.20	2188.20	2188.20
Jan-71	1695.00	1745.70	1787.40	1787.40	1787.40	1920.60	1920.60	2011.20	2011.20	2094.60	2185.80	2269.50	2361.00	2361.00	2361.00	2361.00
Nov-71	1695.00	1745.70	1787.40	1787.40	1787.40	1920.60	1920.60	2011.20	2011.20	2094.60	2185.80	2269.50	2361.00	2361.00	2361.00	2361.00
Jan-72	1817.10	1871.70	1916.40	1916.40	1916.40	2059.20	2059.20	2156.10	2156.10	2245.50	2343.30	2433.00	2531.10	2531.10	2531.10	2531.10
Oct-72	1938.60	1996.80	2044.50	2044.50	2044.50	2196.90	2196.90	2300.40	2300.40	2395.80	2500.20	2595.90	2700.30	2700.30	2700.30	2700.30
Oct-73	2058.30	2120.10	2170.50	2170.50	2170.50	2332.50	2332.50	2442.30	2442.30	2543.70	2654.40	2756.10	2866.80	2866.80	2866.80	2866.80
Oct-74	2172.00	2237.10	2290.20	2290.20	2290.20	2461.20	2461.20	2577.00	2577.00	2684.10	2800.80	2908.20	3000.00	3000.00	3000.00	3000.00
Oct-75	2280.60	2349.00	2404.80	2404.80	2404.80	2584.20	2584.20	2706.00	2706.00	2818.20	2940.90	3053.70	3150.00	3150.00	3150.00	3150.00
Oct-76	2363.10	2433.90	2491.80	2491.80	2491.80	2677.80	2677.80	2804.10	2804.10	2920.20	3047.40	3164.10	3291.00	3291.00	3291.00	3291.00
Oct-77	2509.50	2584.80	2646.30	2646.30	2646.30	2843.70	3843.70	2978.10	2978.10	3101.40	3236.40	3360.30	3495.00	3495.00	3495.00	3495.00
Oct-78	2647.50	2727.00	2791.80	2791.80	2791.80	3000.00	3000.00	3141.90	3141.90	3272.10	3414.30	3545.10	3687.30	3687.30	3687.30	3687.30

Pay Grade O-8																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-79	2833.50	2918.40	2987.70	2987.70	2987.70	3210.60	3210.60	3362.40	3362.40	3501.90	3654.00	3794.10	3946.20	3946.20	3946.20	3946.20
Oct-80	3165.00	3259.80	3337.20	3337.20	3337.20	3586.20	3586.20	3755.70	3755.70	3911.70	4081.50	4176.00	4176.00	4176.00	4176.00	4176.00
Oct-81	3617.70	3726.00	3814.50	3814.50	3814.50	4098.90	4098.90	4292.70	4292.70	4471.20	4665.30	4791.60	4791.60	4791.60	4791.60	4791.60
Oct-82	3762.30	3875.10	3967.20	3967.20	3967.20	4263.00	4263.00	4464.30	4464.30	4650.00	4791.60	4791.60	4791.60	4791.60	4791.60	4791.60
Jan-84	3912.90	4030.20	4125.90	4125.90	4125.90	4433.40	4433.40	4642.80	4642.80	4836.00	5046.00	5239.50	5449.50	5449.50	5449.50	5549.50
Jan-85	4069.50	4191.30	4290.90	4290.90	4290.90	4610.70	4610.70	4828.50	4828.50	5029.50	5247.90	5449.20	5667.60	5667.60	5667.60	5667.60
Oct-85	4191.60	4317.00	4419.60	4419.60	4419.60	4749.00	4749.00	4973.40	4973.40	5180.40	5405.40	5612.70	5837.70	5837.70	5837.70	5837.70
Jan-87	4317.30	4446.60	4552.20	4552.20	4552.20	4891.50	4891.50	5122.50	5122.50	5335.80	5567.70	5781.00	6012.90	6012.90	6012.90	6012.90
Jan-88	4403.70	4535.40	4643.10	4643.10	4643.10	4989.30	4989.30	5225.10	5225.10	5442.60	5679.00	5896.50	6041.70	6041.70	6041.70	6041.70
Jan-89	4584.30	4721.40	4833.60	4833.60	4833.60	5193.90	5193.90	5439.30	5439.30	5665.80	5911.80	6138.30	6289.50	6289.50	6289.50	6289.50
Jan-90	4749.30	4891.50	5007.60	5007.60	5007.60	5380.80	5380.80	5635.20	5635.20	5869.80	6124.50	6359.40	6516.00	6516.00	6516.00	6516.00
Jan-91	4944.00	5092.20	5212.80	5212.80	5212.80	5601.30	5601.30	5866.20	5866.20	6110.40	6375.60	6620.10	6783.30	6783.30	6783.30	6783.30
Jan-92	5151.60	5306.10	5431.80	5431.80	5431.80	5836.50	5836.50	6112.50	6112.50	6366.90	6643.50	6898.20	7068.30	7068.30	7068.30	7068.30
Jan-93	5342.10	5502.30	5632.80	5632.80	5632.80	6052.50	6052.50	6338.70	6338.70	6602.40	6889.20	7153.50	7329.90	7329.90	7329.90	7329.90
Jan-94	5459.70	5623.50	5756.70	5756.70	5756.70	6185.70	6185.70	6478.20	6478.20	6747.60	7040.70	7311.00	7491.30	7491.30	7491.30	7491.30
Jan-95	5601.60	5769.60	5906.40	5906.40	5906.40	6346.50	6346.50	6646.50	6646.50	6923.10	7223.70	7501.20	7686.00	7686.00	7686.00	7686.00
Jan-96	5736.00	5908.20	6048.30	6048.30	6048.30	6498.90	6498.90	6806.10	6806.10	7089.30	7397.10	7681.20	7870.50	7870.50	7870.50	7870.50
Jan-97	5908.20	6085.50	6229.80	6229.80	6229.80	6693.90	6693.90	7010.40	7010.40	7302.00	7619.10	7911.60	8106.60	8106.60	8106.60	8106.60
Jan-98	6073.50	6255.90	6404.10	6404.10	6404.10	6881.40	6881.40	7206.60	7206.60	7506.60	7832.40	8133.00	8333.70	8333.70	8333.70	8333.70
Jan-99	6292.20	6481.20	6634.50	6634.50	6634.50	7129.20	7129.20	7466.10	7466.10	7776.90	8114.40	8425.80	8633.70	8633.70	8633.70	8633.70
Jan-00	6594.30	6792.30	6953.10	6953.10	6953.10	7471.50	7471.50	7824.60	7824.60	8150.10	8503.80	8830.20	9048.00	9048.00	9048.00	9048.00
Jul-00	6594.30	6810.30	6953.10	6993.30	7171.80	7471.50	7540.80	7824.60	7906.20	8150.10	8503.80	8830.20	9048.00	9048.00	9048.00	9048.00
Jan-01	6838.20	7062.30	7210.50	7252.20	7437.30	7747.80	7819.80	8114.10	8198.70	8451.60	8818.50	9156.90	9382.80	9382.80	9382.80	9382.80
Jul-01	6838.20	7062.30	7210.50	7252.20	7437.30	7747.80	7819.80	8114.10	8198.70	8451.60	8818.50	9156.90	9382.80	9382.80	9382.80	9382.80
Jan-02	7180.20	7415.40	7571.10	7614.90	7809.30	8135.10	8210.70	8519.70	8608.50	8874.30	9259.50	9614.70	9852.00	9852.00	9852.00	9852.00

Pay Grade O-8																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-03	7474.50	7719.30	7881.60	7927.20	8129.40	8468.70	8547.30	8868.90	8961.30	9238.20	9639.00	10008.90	10255.80	10255.80	10255.80	10255.80
Jan-04	7751.10	8004.90	8173.20	8220.60	8430.30	8781.90	8863.50	9197.10	9292.80	9579.90	9995.70	10379.10	10635.30	10635.30	10635.30	10635.30
Jan-05	8022.30	8285.10	8459.40	8508.30	8725.50	9089.40	9173.70	9519.00	9618.00	9915.30	10345.50	10742.40	11007.60	11007.60	11007.60	11007.60
Jan-06	8271.00	8541.90	8721.60	8772.00	8996.10	9371.10	9458.10	9814.20	9916.20	10222.80	10666.20	11075.40	11348.70	11348.70	11348.70	11348.70
Jan-07	8453.10	8729.70	8913.60	8964.90	9194.10	9577.20	9666.30	10030.20	10134.30	10447.80	10900.80	11319.00	11598.30	11598.30	11598.30	11888.40
Jan-08	8748.90	9035.10	9225.60	9278.70	9516.00	9912.30	10004.70	10381.20	10488.90	10813.50	11282.40	11715.30	12004.20	12004.20	12004.20	12,304.50
Jan-09	9090.00	9387.60	9585.30	9640.50	9887.10	10299.00	10395.00	10786.20	10898.10	11235.30	11722.50	12172.20	12472.50	12472.50	12472.50	12,784.50
Jan-10	9399.00	9706.80	9911.10	9968.40	10223.40	10649.10	10748.40	11152.80	11268.60	11617.20	12121.20	12586.20	12896.70	12896.70	12896.70	13219.20
Jan-11	9530.70	9842.70	10050.00	10107.90	10366.50	10798.20	10899.00	11308.80	11426.40	11779.80	12291.00	12762.30	13077.30	13077.30	13077.30	13404.30
Jan-12	9683.10	10000.20	10210.80	10269.60	10532.40	10971.00	11073.30	11489.70	11609.10	11968.20	12487.80	12966.60	13286.40	13286.40	13286.40	13618.80
Jan-13	9847.80	10170.30	10384.50	10444.20	10711.50	11157.60	11261.40	11685.00	11806.50	12171.60	12700.20	13187.10	13512.30	13512.30	13512.30	13850.40
Jan-14	9946.20	10272.00	10488.30	10548.60	10818.60	11269.20	11373.90	11802.00	11924.70	12293.40	12827.10	13319.10	13647.30	13647.30	13647.30	13989.00
Jan-15	9946.20	10272.00	10488.30	10548.60	10818.60	11269.20	11373.90	11802.00	11924.70	12293.40	12827.10	13319.10	13647.30	13647.30	13647.30	13989.00

Pay Grade O-7																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-22	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00
Jun-42	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00
Jul-46	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00	550.00
Oct-49	769.50	769.50	769.50	769.50	769.50	769.50	769.50	769.50	769.50	769.50	769.50	769.50	769.50	769.50	798.00	826.50
May-52	800.28	800.28	800.28	800.28	800.28	800.28	800.28	800.28	800.28	800.28	800.28	800.28	800.28	800.28	829.92	859.56
Apr-55	800.28	800.28	850.20	850.20	850.20	850.20	850.20	850.20	850.20	850.20	850.20	850.20	850.20	850.20	904.80	967.20

Pay Grade O-7																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jun-58	800.28	860.00	860.00	860.00	900.00	900.00	950.00	950.00	1000.00	1100.00	1175.00	1175.00	1175.00	1175.00	1175.00	1175.00
Oct-63	800.28	905.00	905.00	905.00	945.00	945.00	1000.00	1000.00	1050.00	1155.00	1235.00	1235.00	1235.00	1235.00	1235.00	1235.00
Sep-64	868.20	927.60	927.60	927.60	968.70	968.70	1025.10	1025.10	1076.40	1183.80	1266.00	1266.00	1266.00	1266.00	1266.00	1266.00
Sep-65	920.40	983.40	983.40	983.40	1026.90	1026.90	1086.60	1086.60	1140.90	1254.90	1341.90	1341.90	1341.90	1341.90	1341.90	1341.90
Jul-66	949.80	1014.90	1014.90	1014.90	1059.90	1059.90	1121.40	1121.40	1177.50	1295.10	1384.80	1384.80	1384.80	1384.80	1384.80	1384.80
Oct-67	1002.90	1071.60	1071.60	1071.60	1119.30	1119.30	1184.10	1184.10	1243.50	1367.70	1462.20	1462.20	1462.20	1462.20	1462.20	1462.20
Jul-68	1072.20	1145.40	1145.40	1145.40	1196.40	1196.40	1265.70	1265.70	1329.30	1462.20	1563.00	1563.00	1563.00	1563.00	1563.00	1563.00
Jul-69	1207.20	1289.70	1289.70	1289.70	1347.00	1347.00	1425.30	1425.30	1496.70	1646.40	1759.80	1759.80	1759.80	1759.80	1759.80	1759.80
Jan-70	1305.00	1394.10	1394.10	1394.10	1456.20	1456.20	1540.80	1540.80	1617.90	1779.90	1902.30	1902.30	1902.30	1902.30	1902.30	1902.30
Jan-71	1408.20	1504.20	1504.20	1504.20	1571.10	1571.10	1662.60	1662.60	1745.70	1920.60	2052.60	2052.60	2052.60	2052.60	2052.60	2052.60
Nov-71	1408.20	1504.20	1504.20	1504.20	1571.10	1571.10	1662.60	1662.60	1745.70	1920.60	2052.60	2052.60	2052.60	2052.60	2052.60	2052.60
Jan-72	1509.60	1612.80	1612.80	1612.80	1684.50	1684.50	1782.60	1782.60	1871.70	2059.20	2200.50	2200.50	2200.50	2200.50	2200.50	2200.50
Oct-72	1610.70	1720.80	1720.80	1720.80	1797.30	1797.30	1902.00	1902.00	1996.80	2196.90	2347.80	2347.80	2347.80	2347.80	2347.80	2347.80
Oct-73	1710.00	1827.00	1827.00	1827.00	1908.30	1908.30	2019.30	2019.30	2120.10	2332.50	2492.70	2492.70	2492.70	2492.70	2492.70	2492.70
Oct-74	1804.50	1927.80	1927.80	1927.80	2013.60	2013.60	2130.90	2130.90	2237.10	2461.20	2630.40	2630.40	2630.40	2630.40	2630.40	2630.40
Oct-75	1894.80	2024.10	2024.10	2024.10	2114.40	2114.40	2237.40	2237.40	2349.00	2584.20	2761.80	2761.80	2761.80	2761.80	2761.80	2761.80
Oct-76	1963.50	2097.30	2097.30	2097.30	2190.90	2190.90	2318.40	2318.40	2433.90	2677.80	2861.70	2861.70	2861.70	2861.70	2861.70	2861.70
Oct-77	2085.30	2227.20	2227.20	2227.20	2326.80	2326.80	2462.10	2462.10	2584.80	2843.70	3039.00	3039.00	3039.00	3039.00	3039.00	3039.00
Oct-78	2199.90	2349.60	2349.60	2349.60	2454.90	2454.90	2597.40	2597.40	2727.00	3000.00	3206.10	3206.10	3206.10	3206.10	3206.10	3206.10
Oct-79	2354.40	2514.60	2514.60	2514.60	2627.10	2627.10	2779.80	2779.80	2918.40	3210.60	3431.10	3431.10	3431.10	3431.10	3431.10	3431.10
Oct-80	2629.80	2808.90	2808.90	2808.90	2934.60	2934.60	3105.00	3105.00	3259.80	3586.20	3832.50	3832.50	3832.50	3832.50	3832.50	3832.50
Oct-81	3006.00	3210.60	3210.60	3210.60	3354.30	3354.30	3549.00	3549.00	3726.00	4098.90	4380.60	4380.60	4380.60	4380.60	4380.60	4380.60
Oct-82	3126.30	3339.00	3339.00	3339.00	3488.40	3488.40	3690.90	3690.90	3875.10	4263.00	4555.80	4555.80	4555.80	4555.80	4555.80	4555.80
Jan-84	3251.40	3472.50	3472.50	3472.50	3627.90	3627.90	3838.50	3838.50	4030.20	4433.40	4737.90	4737.90	4737.90	4737.90	4737.90	4737.90
Jan-85	3381.60	3611.40	3611.40	3611.40	3773.10	3773.10	3992.10	3992.10	4191.30	4610.70	4927.50	4927.50	4927.50	4927.50	4927.50	4927.50

Pay Grade O-7																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-85	3483.00	3719.70	3719.70	3719.70	3886.20	3886.20	4111.80	4111.80	4317.00	4749.00	5075.40	5075.40	5075.40	5075.40	5075.40	5075.40
Jan-87	3587.40	3831.30	3831.30	3831.30	4002.90	4002.90	4235.10	4235.10	4446.60	4891.50	5227.80	5227.80	5227.80	5227.80	5227.80	5227.80
Jan-88	3659.10	3907.80	3907.80	3907.80	4083.00	4083.00	4319.70	4319.70	4535.40	4989.30	5332.50	5332.50	5332.50	5332.50	5332.50	5332.50
Jan-89	3809.10	4068.00	4068.00	4068.00	4250.40	4250.40	4496.70	4496.70	4721.40	5193.90	5551.20	5551.20	5551.20	5551.20	5551.20	5551.20
Jan-90	3946.20	4214.40	4214.40	4214.40	4403.40	4403.40	4658.70	4658.70	4891.50	5380.80	5751.00	5751.00	5751.00	5751.00	5751.00	5751.00
Jan-91	4107.90	4387.20	4387.20	4387.20	4584.00	4584.00	4849.80	4849.80	5092.20	5601.30	5986.80	5986.80	5986.80	5986.80	5986.80	5986.80
Jan-92	4280.40	4571.40	4571.40	4571.40	4776.60	4776.60	5053.50	5053.50	5306.10	5836.50	6238.20	6238.20	6238.20	6238.20	6238.20	6238.20
Jan-93	4438.80	4740.60	4740.60	4740.60	4953.30	4953.30	5240.40	5240.40	5502.30	6052.50	6468.90	6468.90	6468.90	6468.90	6468.90	6468.90
Jan-94	4536.60	4845.00	4845.00	4845.00	5062.20	5062.20	5355.60	5355.60	5623.50	6185.70	6611.10	6611.10	6611.10	6611.10	6611.10	6611.10
Jan-95	4654.50	4971.00	4971.00	4971.00	5193.90	5193.90	5494.80	5494.80	5769.60	6346.50	6783.00	6783.00	6783.00	6783.00	6783.00	6783.00
Jan-96	4766.10	5090.40	5090.40	5090.40	5318.70	5318.70	5626.80	5626.80	5908.20	6498.90	6945.90	6945.90	6945.90	6945.90	6945.90	6945.90
Jan-97	4909.20	5243.10	5243.10	5243.10	5478.30	5478.30	5795.70	5795.70	6085.50	6693.90	7154.40	7154.40	7154.40	7154.40	7154.40	7154.40
Jan-98	5046.60	5389.80	5389.80	5389.80	5631.60	5631.60	5958.00	5958.00	6255.90	6881.40	7354.80	7354.80	7354.80	7354.80	7354.80	7354.80
Jan-99	5528.40	5583.90	5583.90	5583.90	5834.40	5834.40	6172.50	6172.50	6481.20	7129.20	7619.70	7619.70	7619.70	7619.70	7619.70	7619.70
Jan-00	5479.50	5851.80	5851.80	5851.80	6114.60	6114.60	6468.90	6468.90	6792.30	7471.50	7985.40	7985.40	7985.40	7985.40	7985.40	7985.40
Jul-00	5479.50	5851.80	5851.80	5894.40	6114.60	6282.00	6475.80	6669.00	6863.10	7471.50	7985.40	7985.40	7985.40	7985.40	8025.60	8025.60
Jan-01	5682.30	6068.60	6068.40	6112.50	6340.80	6514.50	6715.50	6915.90	7116.90	7747.80	8280.90	8280.90	8280.90	8280.90	8322.60	8322.60
Jul-01	5682.30	6068.40	6068.40	6112.50	6340.80	6514.50	6715.50	6915.90	7116.90	7747.80	8280.90	8280.90	8280.90	8280.90	8322.60	
Jan-02	5966.40	6371.70	6371.70	6418.20	6657.90	6840.30	7051.20	7261.80	7472.70	8135.10	8694.90	8694.90	8694.90	8694.90	8738.70	8738.70
Jan-03	6210.90	6499.20	6633.00	6739.20	6930.90	7120.80	7340.40	7559.40	7779.00	8468.70	9051.30	9051.30	9051.30	9051.30	9096.90	9096.90
Jan-04	6440.70	6739.80	6878.40	6988.50	7187.40	7384.20	7611.90	7839.00	8066.70	8781.90	9386.10	9386.10	9386.10	9386.10	9433.50	9433.50
Jan-05	6666.00	6975.60	7119.00	7233.00	7439.10	7642.50	7878.30	8113.50	8349.00	9089.40	9714.60	9714.60	9714.60	9714.60	9763.80	9763.80
Jan-06	6872.70	7191.90	7339.80	7457.10	7669.80	7879.50	8122.50	8364.90	8607.90	9371.10	10015.80	10015.80	10015.80	10015.80	10066.50	10066.50
Jan-07	7023.90	7350.00	7501.20	7621.20	7838.40	8052.90	8301.30	8548.80	8797.20	9577.20	10236.00	10236.00	10236.00	10236.00	10287.90	10493.70
Jan-08	7269.60	7607.40	7763.70	7887.90	8112.60	8334.90	8591.70	8847.90	9105.00	9912.30	10594.20	10594.20	10594.20	10594.20	10647.90	10860.90

Pay Grade O-7																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-09	7553.10	7904.10	8066.40	8195.40	8429.10	8660.10	8926.80	9192.90	9460.20	10299.00	11007.30	11007.30	11007.30	11007.30	11063.10	11284.50
Jan-10	7809.90	8172.90	8340.60	8474.10	8715.60	8954.40	9230.40	9505.50	9781.80	10649.10	11381.40	11381.40	11381.40	11381.40	11439.30	11668.20
Jan-11	7919.10	8287.20	8457.30	8592.60	8837.70	9079.80	9359.70	9638.70	9918.60	10798.20	11540.70	11540.70	11540.70	11540.70	11599.50	11831.70
Jan-12	8045.70	8419.80	8592.60	8730.00	8979.00	9225.00	9509.40	9792.90	10077.30	10971.00	11725.50	11725.50	11725.50	11725.50	11785.20	12021.00
Jan-13	8182.50	8562.90	8738.70	8878.50	9131.70	9381.90	9671.10	9959.40	10248.60	11157.60	11924.70	11924.70	11924.70	11924.70	11985.60	12225.30
Jan-14	8264.40	8648.40	8826.00	8967.30	9222.90	9475.80	9767.70	10059.00	10351.20	11269.20	12043.80	12043.80	12043.80	12043.80	12105.60	12347.70
Jan-15	8264.40	8648.40	8826.00	8967.30	9222.90	9475.80	9767.70	10059.00	10351.20	11269.20	12043.80	12043.80	12043.80	12043.80	12105.60	12347.70

Pay Grade O-6																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-22	291.67	291.67	306.25	306.25	320.83	320.83	335.42	350.00	350.00	364.58	379.17	393.75	408.33	408.33	483.33	500.00
Jun-42	333.33	333.33	350.00	350.00	366.67	366.67	383.33	400.00	400.00	416.67	433.33	450.00	450.00	450.00	483.33	500.00
Jul-46	366.67	366.67	385.00	385.00	403.33	403.33	421.67	440.00	440.00	458.33	476.67	495.00	495.00	495.00	531.67	550.00
Oct-49	570.00	570.00	570.00	570.00	570.00	570.00	570.00	570.00	570.00	584.25	612.75	612.75	641.25	641.25	669.75	698.25
May-52	592.80	592.80	592.80	592.80	592.80	592.80	592.80	592.80	592.80	607.62	637.26	637.26	666.90	666.90	696.54	726.18
Apr-55	592.80	592.80	631.80	631.80	631.80	631.80	631.80	631.80	631.80	655.20	717.60	717.60	748.80	748.80	780.00	811.20
Jun-58	592.80	628.00	670.00	670.00	670.00	670.00	670.00	670.00	690.00	800.00	840.00	860.00	910.00	910.00	985.00	985.00
Oct-63	592.80	690.00	735.00	735.00	735.00	735.00	735.00	735.00	760.00	880.00	925.00	945.00	1000.00	1000.00	1085.00	1085.00
Sep-64	643.20	707.40	753.30	753.30	753.30	753.30	753.30	753.30	779.10	902.10	948.00	968.70	1025.10	1025.10	1112.10	1112.10
Sep-65	681.90	749.70	798.60	798.60	798.60	798.60	798.60	798.60	825.90	956.10	1005.00	1026.90	1086.60	1086.60	1178.70	1178.70
Jul-66	703.80	773.70	824.10	824.10	824.10	824.10	824.10	824.10	852.30	986.70	1037.10	1059.90	1121.40	1121.40	1216.50	1216.50

Pay Grade O-6																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-67	743.10	816.90	870.30	870.30	870.30	870.30	870.30	870.30	900.00	1041.90	1095.30	1119.30	1184.10	1184.10	1284.60	1284.60
Jul-68	794.40	873.30	930.30	930.30	930.30	930.30	930.30	930.30	962.10	1113.90	1170.90	1196.40	1265.70	1265.70	1373.10	1373.10
Jul-69	894.60	983.40	1047.60	1047.60	1047.60	1047.60	1047.60	1047.60	1083.30	1254.30	1318.50	1347.00	1425.30	1425.30	1546.20	1546.20
Jan-70	967.20	1063.20	1132.50	1132.50	1132.50	1132.50	1132.50	1132.50	1170.90	1356.00	1425.30	1456.20	1540.80	1540.80	1671.30	1671.30
Jan-71	1043.70	1147.20	1221.90	1221.90	1221.90	1221.90	1221.90	1221.90	1263.30	1463.10	1537.80	1571.10	1662.60	1662.60	1803.30	1803.30
Nov-71	1043.70	1147.20	1221.90	1221.90	1221.90	1221.90	1221.90	1221.90	1263.30	1463.10	1537.80	1571.10	1662.60	1662.60	1803.30	1803.30
Jan-72	1119.00	1230.00	1310.10	1310.10	1310.10	1310.10	1310.10	1310.10	1354.50	1568.70	1648.80	1684.50	1782.60	1782.60	1933.20	1933.20
Oct-72	1194.00	1312.20	1397.70	1397.70	1397.70	1397.70	1397.70	1397.70	1445.10	1673.70	1759.20	1797.30	1902.00	1902.00	2062.50	2062.50
Oct-73	1267.80	1393.20	1483.80	1483.80	1483.80	1483.80	1483.80	1483.80	1534.20	1776.90	1867.80	1908.30	2019.30	2019.30	2189.70	2189.70
Oct-74	1337.70	1470.00	1565.70	1565.70	1565.70	1565.70	1565.70	1565.70	1618.80	1875.00	1971.00	2013.60	2130.90	2130.90	2310.60	2310.60
Oct-75	1404.60	1543.50	1644.00	1644.00	1644.00	1644.00	1644.00	1644.00	1699.80	1968.90	2069.70	2114.40	2237.40	2237.40	2426.10	2426.10
Oct-76	1455.30	1599.30	1703.40	1703.40	1703.40	1703.40	1703.40	1703.40	1761.30	2040.30	2144.70	2190.90	2318.40	2318.40	2514.00	2514.00
Oct-77	1545.60	1698.60	1809.00	1809.00	1809.00	1809.00	1809.00	1809.00	1870.50	2166.90	2277.60	2326.80	2462.10	2462.10	2670.00	2670.00
Oct-78	1630.50	1791.90	1908.60	1908.60	1908.60	1908.60	1908.60	1908.60	1973.40	2286.00	2403.00	2454.90	2597.40	2597.40	2817.00	2817.00
Oct-79	1745.20	1917.60	2042.70	2042.70	2042.70	2042.70	2042.70	2042.70	2112.00	2446.50	2571.60	2627.10	2779.80	2779.80	3014.70	3014.70
Oct-80	1949.40	2142.00	2281.80	2281.80	2281.80	2281.80	2281.80	2281.80	2359.20	2732.70	2872.50	2934.60	3105.00	3105.00	3367.50	3367.50
Oct-81	2228.10	2448.30	2608.20	2608.20	2608.20	2608.20	2608.20	2608.20	2696.70	3123.60	3283.20	3354.30	3549.00	3549.00	3849.00	3849.00
Oct-82	2317.20	2546.10	2712.60	2712.60	2712.60	2712.60	2712.60	2712.60	2804.70	3248.40	3414.60	3488.40	3690.90	3690.90	4002.90	4002.90
Jan-84	2409.90	2647.80	2821.20	2821.20	2821.20	2821.20	2821.20	2821.20	2916.90	3378.30	3551.10	3627.90	3838.50	3838.50	4163.10	4163.10
Jan-85	2506.20	2753.70	2934.00	2934.00	2934.00	2934.00	2934.00	2934.00	3033.60	3513.30	3693.00	3773.10	3992.10	3992.10	4329.60	4329.60
Oct-85	2581.50	2836.20	3021.90	3021.90	3021.90	3021.90	3021.90	3021.90	3124.50	3618.60	3803.70	3886.20	4111.80	4111.80	4459.50	4459.50
Jan-87	2658.90	2921.40	3112.50	3112.50	3112.50	3112.50	3112.50	3112.50	3218.10	3727.20	3917.70	4002.90	4235.10	4235.10	4593.30	4592.30
Jan-88	2712.00	2979.90	3174.90	3174.90	3174.90	3174.90	3174.90	3174.90	3282.60	3801.60	3996.00	4083.00	4319.70	4319.70	4685.10	4685.10
Jan-89	2823.30	3102.00	3305.10	3305.10	3305.10	3305.10	3305.10	3305.10	3417.30	3957.60	4159.80	4250.40	4496.70	4496.70	4877.10	4877.10
Jan-90	2925.00	3213.60	3424.20	3424.20	3424.20	3424.20	3424.20	3424.20	3540.30	4100.10	4309.50	4403.40	4658.70	4658.70	5052.60	5052.60

Pay Grade O-6																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-91	3045.00	3345.30	3564.60	3564.60	3564.60	3564.60	3564.60	3564.60	3685.50	4268.10	4486.20	4584.00	4849.80	4849.80	5259.90	5259.90
Jan-92	3172.80	3485.70	3714.30	3714.30	3714.30	3714.30	3714.30	3714.30	3840.30	4447.50	4674.60	4776.60	5053.50	5053.50	5480.70	5480.70
Jan-93	3290.10	3614.70	3851.70	3851.70	3851.70	3851.70	3851.70	3851.70	3982.50	4612.20	4847.70	4953.30	5240.40	5417.70	5683.50	5683.50
Jan-94	3362.40	3694.20	3936.30	3936.30	3936.30	3936.30	3936.30	3936.30	4070.10	4713.60	4954.20	5062.20	5355.60	5536.80	5808.60	5808.60
Jan-95	3449.70	3790.20	4038.60	4038.60	4038.60	4038.60	4038.60	4038.60	4176.00	4836.30	5082.90	5193.90	5494.80	5680.80	5959.50	5959.50
Jan-96	3532.50	3881.10	4135.50	4135.50	4135.50	4135.50	4135.50	4135.50	4276.20	4952.40	5205.00	5318.70	5626.80	5817.00	6102.60	6102.60
Jan-97	3638.40	3997.50	4259.70	4259.70	4259.70	4259.70	4259.70	4259.70	4404.60	5100.90	5361.30	5478.30	5795.70	5991.60	6285.60	6285.60
Jan-98	3740.40	4109.40	4379.10	4379.10	4379.10	4379.10	4379.10	4379.10	4527.90	5243.70	5511.30	5631.60	5958.00	6159.30	6461.70	6461.70
Jan-99	3875.10	4257.30	4536.60	4536.60	4536.60	4536.60	4536.60	4536.60	4690.80	5432.40	5709.60	5834.40	6172.50	6381.00	6694.20	6694.20
Jan-00	4061.10	4461.60	4754.40	4754.40	4754.40	4754.40	4754.40	4754.40	4916.10	5693.10	5983.80	6114.60	6468.90	6687.30	7015.50	7015.50
Jul-00	4061.10	4461.60	4754.40	4754.40	4772.40	4976.70	5004.00	5004.00	5169.30	5791.20	6086.10	6381.30	6549.00	6719.10	7049.10	7049.10
Jan-01	4211.40	4626.60	4930.20	4930.20	4949.10	5160.90	5189.10	5189.10	5360.70	6005.40	6311.40	6617.40	6791.40	6967.80	7309.80	7309.80
Jul-01	4211.40	4626.60	4930.20	4930.20	4949.10	5160.90	5189.10	5189.10	5360.70	6005.40	6311.40	6617.40	6791.40	6967.80	7309.80	7309.80
Jan-02	4422.00	4857.90	5176.80	5176.80	5196.60	5418.90	5448.60	5448.60	5628.60	6305.70	6627.00	6948.30	7131.00	7316.10	7675.20	7675.20
Jan-03	4603.20	5057.10	5388.90	5388.90	5409.60	5641.20	5672.10	5672.10	5994.60	6564.30	6898.80	7233.30	7423.50	7616.10	7989.90	7989.90
Jan-04	4773.60	5244.30	5588.40	5588.40	5609.70	5850.00	5882.10	5882.10	6216.30	6807.30	7154.10	7500.90	7698.30	7897.80	8285.40	8285.40
Jan-05	4940.70	5427.90	5784.00	5784.00	5805.90	6054.90	6087.90	6087.90	6433.80	7045.50	7404.60	7763.40	7967.70	8174.10	8575.50	8575.50
Jan-06	5094.00	5596.20	5963.40	5963.40	5985.90	6242.70	6276.60	6276.60	6633.30	7263.90	7634.10	8004.00	8214.60	8427.60	8841.30	8841.30
Jan-07	5206.20	5719.20	6094.50	6094.50	6117.60	6380.10	6414.60	6414.60	6779.10	7423.80	7802.10	8180.10	8395.20	8613.00	9035.70	9216.30
Jan-08	5388.30	5919.30	6307.80	6307.80	6331.80	6603.30	6639.00	6639.00	7016.40	7683.60	8075.10	8466.30	8688.90	8914.50	9351.90	9538.80
Jan-09	5598.30	6150.30	6553.80	6553.80	6578.70	6860.70	6897.90	6897.90	7290.00	7983.30	8390.10	8796.60	9027.90	9262.20	9716.70	9910.80
Jan-10	5788.50	6359.40	6776.70	6776.70	6802.50	7094.10	7132.50	7132.50	7537.80	8254.80	8675.40	9095.70	9334.80	9577.20	10047.00	10247.70
Jan-11	5869.50	6448.50	6871.50	6871.50	6897.60	7193.40	7232.40	7232.40	7643.40	8370.30	8796.90	9222.90	9465.60	9711.30	10187.70	10391.10
Jan-12	5963.40	6551.70	6981.30	6981.30	7008.00	7308.60	7348.20	7348.20	7765.80	8504.10	8937.60	9370.50	9617.10	9866.70	10350.60	10557.30
Jan-13	6064.80	6663.00	7100.10	7100.10	7127.10	7432.80	7473.00	7473.00	7897.80	8648.70	9089.40	9529.80	9780.60	10034.40	10526.70	10736.70

Pay Grade O-6																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-14	6125.40	6729.60	7171.20	7171.20	7198.50	7507.20	7547.70	7547.70	7976.70	8735.10	9180.30	9625.20	9878.40	10134.60	10632.00	10844.10
Jan-15	6186.60	6796.80	7242.90	7242.90	7270.50	7582.20	7623.30	7623.30	8056.50	8822.40	9272.10	9721.50	9977.10	10236.00	10738.20	10952.40

Pay Grade O-5																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-22	250.00	250.00	262.50	262.50	275.00	275.00	287.50	300.00	300.00	312.50	325.00	393.75	408.33	408.33	422.92	479.17
Jun-42	291.67	291.67	306.25	306.25	320.83	320.83	335.42	350.00	350.00	364.58	379.17	393.75	408.33	408.33	422.92	500.00
Jul-46	320.83	320.83	336.88	336.88	352.92	352.92	368.96	385.00	385.00	401.04	417.08	433.13	433.13	433.13	465.21	550.00
Oct-49	456.00	456.00	456.00	456.00	456.00	456.00	456.00	470.25	484.50	498.75	527.25	527.25	555.75	555.75	584.25	584.25
May-52	474.24	474.24	474.24	474.24	474.24	474.24	474.24	489.06	503.88	518.70	548.34	548.34	577.98	577.98	607.62	607.62
Apr-55	474.24	474.24	507.00	507.00	507.00	507.00	507.00	530.40	561.60	577.20	608.40	608.40	639.60	639.60	670.80	670.80
Jun-58	474.24	503.00	540.00	540.00	540.00	540.00	560.00	590.00	630.00	680.00	720.00	745.00	775.00	775.00	775.00	775.00
Oct-63	474.24	590.00	630.00	630.00	630.00	630.00	650.00	685.00	730.00	785.00	830.00	855.00	885.00	885.00	885.00	885.00
Sep-64	514.50	604.80	645.90	645.90	645.90	645.90	666.30	702.00	748.20	804.60	850.80	876.30	907.20	907.20	907.20	907.20
Sep-65	545.40	641.10	684.60	684.60	684.60	684.60	706.20	744.00	793.20	852.90	901.80	928.80	961.50	961.50	961.50	961.50
Jul-66	562.80	661.50	706.50	706.50	706.50	706.50	728.70	767.70	818.70	880.20	930.60	958.50	992.40	992.40	992.40	992.40
Oct-67	594.30	698.40	746.10	746.10	746.10	746.10	769.50	810.60	864.60	929.40	982.80	1012.20	1047.90	1047.90	1047.90	1047.90
Jul-68	635.40	746.70	797.70	797.70	797.70	797.70	822.60	866.40	924.30	993.60	1050.60	1082.10	1120.20	1120.20	1120.20	1120.20
Jul-69	715.50	840.90	898.20	898.20	898.20	898.20	926.10	975.60	1040.70	1118.70	1182.90	1218.30	1261.20	1261.20	1261.20	1261.20
Jan-70	773.40	909.00	971.10	971.10	971.10	971.10	1001.10	1054.50	1125.00	1209.30	1278.60	1317.00	1363.50	1363.50	1363.50	1363.50
Jan-71	834.60	980.70	1047.90	1047.90	1047.90	1047.90	1080.80	1137.90	1213.80	1304.70	1379.70	1421.10	1471.20	1471.20	1471.20	1471.20
Nov-71	834.60	980.70	1047.90	1047.90	1047.90	1047.90	1080.80	1137.90	1213.80	1304.70	1379.70	1421.10	1471.20	1471.20	1471.20	1471.20

Pay Grade O-5																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-72	894.90	1051.50	1123.50	1123.50	1123.50	1123.50	1158.30	1219.80	1301.40	1398.90	1479.30	1523.70	1577.40	1577.40	1577.40	1577.40
Oct-72	954.90	1121.70	1198.80	1198.80	1198.80	1198.80	1235.70	1301.40	1388.40	1492.50	1578.30	1625.70	1683.00	1683.00	1683.00	1683.00
Oct-73	1013.70	1191.00	1272.90	1272.90	1272.90	1272.90	1311.90	1381.80	1474.20	1584.60	1675.80	1725.90	1786.80	1786.80	1786.80	1786.80
Oct-74	1069.80	1256.70	1343.10	1343.10	1343.10	1343.10	1384.20	1458.00	1555.50	1672.20	1768.20	1821.30	1885.50	1885.50	1885.50	1885.50
Oct-75	1123.20	1319.40	1410.30	1410.30	1410.30	1410.30	1453.50	1530.90	1633.20	1755.90	1856.70	1912.50	1979.70	1979.70	1979.70	1979.70
Oct-76	1164.00	1367.10	1461.30	1461.30	1461.30	1461.30	1506.00	1586.40	1692.30	1819.50	1923.90	1981.80	2051.40	2051.40	2051.40	2051.40
Oct-77	1236.30	1452.00	1551.90	1551.90	1551.90	1551.90	1599.30	1684.80	1797.30	1932.30	2043.30	2104.80	2178.60	2178.60	2178.60	2178.60
Oct-78	1304.40	1531.80	1637.40	1637.40	1637.40	1637.40	1687.20	1777.50	1896.30	2038.50	2155.80	2220.60	2298.30	2298.30	2298.30	2298.30
Oct-79	1395.90	1639.20	1752.30	1752.30	1752.30	1752.30	1805.70	1902.30	2029.50	2181.60	2307.00	2376.60	2459.70	2459.70	2459.70	2459.70
Oct-80	1559.10	1830.90	1957.20	1957.20	1957.20	1957.20	2016.90	2124.90	2267.10	2436.90	2577.00	2654.70	2747.40	2747.40	2747.40	2747.40
Oct-81	1782.00	2092.80	2237.10	2237.10	2237.10	2237.10	2305.20	2428.80	2591.40	2785.50	2945.40	3034.20	3140.40	3140.40	3140.40	3140.40
Oct-82	1853.40	2176.50	2326.50	2326.50	2326.50	2326.50	2397.30	2526.00	2695.20	2896.80	3063.30	3155.70	3266.10	3266.10	3266.10	3266.10
Jan-84	1927.50	2263.50	2419.50	2419.50	2419.50	2419.50	2493.30	2627.10	2802.90	3012.60	3185.70	3282.00	3396.60	3396.60	3396.60	3396.60
Jan-85	2004.60	2354.10	2516.40	2516.40	2516.40	2516.40	2592.90	2732.10	2915.10	3133.20	3313.20	3413.40	3532.50	3532.50	3532.50	3532.50
Oct-85	2064.60	2424.60	2592.00	2592.00	2592.00	2592.00	2670.60	2814.00	3002.70	3227.10	3412.50	3515.70	3638.40	3638.40	3638.40	3638.40
Jan-87	2126.40	2497.20	2669.70	2669.70	2669.70	2669.70	2750.70	2898.30	3092.70	3324.00	3514.80	3621.30	3747.60	3747.60	3747.60	3747.60
Jan-88	2159.00	2547.00	2723.10	2723.10	2723.10	2723.10	2805.60	2956.20	3154.50	3390.60	3585.00	3693.60	3822.60	3822.60	3822.60	3822.60
Jan-89	2257.80	2651.40	2834.70	2834.70	2834.70	2834.70	2920.50	3077.40	3283.80	3529.50	3732.00	3845.10	3979.20	3979.20	3979.20	3979.20
Jan-90	2339.10	2746.80	2936.70	2936.70	2936.70	2936.70	3025.50	3188.10	3402.00	3656.70	3866.40	3983.40	4122.60	4122.60	4122.60	4122.60
Jan-91	2435.10	2589.30	3057.00	3057.00	3057.00	3057.00	3149.40	3318.90	3541.50	3806.70	4024.80	4146.60	4291.50	4291.50	4291.50	4291.50
Jan-92	2537.40	2979.30	3185.40	3185.40	3185.40	3185.40	3281.70	3458.40	3690.30	3966.60	4193.70	4320.90	4471.80	4471.80	4471.80	4471.80
Jan-93	2631.30	3089.40	3303.30	3303.30	3303.30	3303.30	3403.20	3586.50	3826.80	4113.30	4348.80	4480.80	4637.40	4637.40	4637.40	4637.40
Jan-94	2689.20	3157.50	3375.90	3375.90	3375.90	3375.90	3478.20	3665.40	3911.10	4203.90	4444.50	4579.50	4739.40	4739.40	4739.40	4739.40
Jan-95	2759.10	3239.70	3463.80	3463.80	3463.80	3463.80	3568.50	3760.80	4012.80	4313.10	4560.00	4698.60	4862.70	4862.70	4862.70	4862.70
Jan-96	2825.40	3317.40	3546.90	3546.90	3546.90	3546.90	3654.00	3851.10	4109.10	4416.60	4669.50	4811.40	4979.40	4979.40	4979.40	4979.40

Pay Grade O-5																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-97	2910.30	3417.00	3653.40	3653.40	3653.40	3653.40	3763.50	3966.60	4232.40	4549.20	4809.60	4955.70	5128.80	5128.80	5128.80	5128.80
Jan-98	2991.90	3512.70	3755.70	3755.70	3755.70	3755.70	3868.80	4077.60	4350.90	4676.70	4944.30	5094.60	5272.50	5272.50	5272.50	5272.50
Jan-99	3099.60	3639.30	3891.00	3891.00	3891.00	3891.00	4008.00	4224.30	4507.50	4845.00	5122.20	5277.90	5462.40	5462.40	5462.40	5462.40
Jan-00	3248.40	3813.90	4077.90	4077.90	4077.90	4077.90	4200.30	4427.10	4723.80	5077.50	5368.20	5531.10	5724.60	5724.60	5724.60	5724.60
Jul-00	3248.40	3813.90	4077.90	4127.70	4291.80	4291.80	4420.80	4659.30	4971.90	5286.00	5436.00	5583.60	5751.90	5751.90	5751.90	5751.90
Jan-01	3368.70	3954.90	4228.80	4280.40	4450.50	4450.50	4584.30	4831.80	5155.80	5481.60	5637.00	5790.30	5964.60	5964.60	5964.60	5964.60
Jul-01	3368.70	3954.90	4228.80	4280.40	4450.50	4450.50	4584.30	4831.80	5155.80	5481.60	5637.00	5790.30	5964.60	5964.60	5964.60	5964.60
Jan-02	3537.00	4152.60	4440.30	4494.30	4673.10	4673.10	4813.50	5073.30	5413.50	5755.80	5919.00	6079.80	6262.80	6262.80	6262.80	6262.80
Jan-03	3837.60	4323.00	4622.40	4678.50	4864.80	4977.00	5222.70	5403.00	5635.50	5991.90	6161.70	6329.10	6519.60	6519.60	6519.60	6519.60
Jan-04	3979.50	4482.90	4793.40	4851.60	5044.80	5161.20	5415.90	5602.80	5844.00	6213.60	6389.70	6563.40	6760.80	6760.80	6760.80	6760.80
Jan-05	4118.70	4639.80	4961.10	5021.40	5221.50	5341.80	5605.50	5799.00	6048.60	6431.10	6613.20	6793.20	6997.50	6997.50	6997.50	6997.50
Jan-06	4246.50	4783.50	5115.00	5177.10	5383.50	5507.40	5779.20	5978.70	6236.10	6630.60	6818.10	7003.80	7214.40	7214.40	7214.40	7214.40
Jan-07	4339.80	4888.80	5227.50	5291.10	5502.00	5628.60	5906.40	6110.10	6373.20	6776.40	6968.10	7158.00	7373.10	7373.10	7373.10	7373.10
Jan-08	4491.60	5059.80	5410.50	5476.20	5694.60	5825.70	6113.10	6324.00	6596.40	7013.70	7212.00	7408.50	7631.10	7631.10	7631.10	7631.10
Jan-09	4666.80	5257.20	5621.40	5689.80	5916.60	6052.80	6351.60	6570.60	6853.80	7287.30	7493.40	7697.40	7928.70	7928.70	7928.70	7928.70
Jan-10	4825.50	5436.00	5812.50	5883.30	6117.90	6258.60	6567.60	6794.10	7086.90	7535.10	7748.10	7959.00	8198.40	8198.40	8198.40	8198.40
Jan-11	4893.00	5512.20	5893.80	5965.80	6203.70	6346.20	6659.40	6889.20	7186.20	7640.70	7856.70	8070.30	8313.30	8313.30	8313.30	8313.30
Jan-12	4971.30	5600.40	5988.00	6061.20	6303.00	6447.60	6765.90	6999.30	7301.10	7763.10	7982.40	8199.30	8446.20	8446.20	8446.20	8446.20
Jan-13	5055.90	5695.50	6089.70	6164.10	6410.10	6557.10	6880.80	7118.40	7425.30	7895.10	8118.00	8338.80	8589.90	8589.90	8589.90	8589.90
Jan-14	5106.60	5752.50	6150.60	6225.60	6474.30	6622.80	6949.50	7189.50	7499.70	7974.00	8199.30	8422.20	8675.70	8675.70	8675.70	8675.70
Jan-15	5157.60	5810.10	6212.10	6288.00	6539.10	6689.10	7019.10	7261.50	7574.70	8053.80	8281.20	8506.50	8762.40	8762.40	8762.40	8762.40

Pay Grade O-4																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-22	200.00	200.00	210.00	210.00	220.00	220.00	230.00	240.00	240.00	312.50	325.00	337.50	408.33	408.33	422.92	437.50
Jun-42	250.00	250.00	262.50	262.50	275.00	275.00	287.50	300.00	300.00	312.50	325.00	337.50	408.33	408.33	422.92	437.50
Jul-46	275.00	275.00	288.75	288.75	302.50	302.50	316.25	330.00	330.00	343.75	357.50	371.25	433.13	433.13	465.20	481.25
Oct-49	384.75	384.75	384.75	384.75	384.75	399.00	413.25	427.50	441.75	456.00	484.50	484.50	498.75	498.75	513.00	513.00
May-52	400.14	400.14	400.14	400.14	400.14	414.96	429.78	444.60	459.42	474.24	503.88	503.88	518.70	518.70	533.52	533.52
Apr-55	400.14	400.14	429.00	429.00	429.90	452.40	483.60	499.20	514.80	530.40	561.60	561.60	577.20	577.20	592.80	592.80
Jun-58	400.14	424.00	455.00	455.00	465.00	485.00	520.00	550.00	570.00	610.00	630.00	630.00	630.00	630.00	630.00	630.00
Oct-63	400.14	515.00	550.00	550.00	560.00	585.00	625.00	660.00	690.00	720.00	740.00	740.00	740.00	740.00	740.00	740.00
Sep-64	434.10	528.00	563.70	563.70	573.90	599.70	640.50	676.50	707.40	738.00	758.40	758.40	758.40	758.40	758.40	758.40
Sep-65	460.20	559.80	597.60	597.60	608.40	635.70	678.90	717.00	749.70	782.40	804.00	804.00	804.00	804.00	804.00	804.00
Jul-66	474.90	577.80	616.80	616.80	627.90	656.10	700.50	739.80	773.70	807.30	829.80	829.80	829.80	829.80	829.80	829.80
Oct-67	501.60	610.20	651.30	663.00	692.70	739.80	781.20	816.90	852.60	876.30	876.30	876.30	876.30	876.30	876.30	876.30
Jul-68	536.10	652.20	696.30	696.30	708.60	740.40	790.80	835.20	873.30	911.40	936.90	936.90	936.90	936.90	936.90	936.90
Jul-69	603.60	734.40	783.90	783.90	798.00	833.70	890.40	940.50	983.40	1026.30	1054.80	1054.80	1054.80	1054.80	1054.80	1054.80
Jan-70	652.50	793.80	847.50	847.50	862.50	901.20	962.40	1016.70	1063.20	1109.40	1140.30	1140.30	1140.30	1140.30	1140.30	1140.30
Jan-71	704.10	856.50	914.40	914.40	930.60	972.30	1038.30	1097.10	1147.20	1197.00	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30
Nov-71	704.10	856.50	914.40	914.40	930.60	972.30	1038.30	1097.10	1147.20	1197.00	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30
Jan-72	754.80	918.30	980.40	980.40	997.80	1042.50	1113.30	1176.30	1230.00	1283.40	1319.10	1319.10	1319.10	1319.10	1319.10	1319.10
Oct-72	805.20	979.80	1046.10	1064.70	1064.70	1112.10	1187.70	1254.90	1312.20	1369.20	1407.30	1407.30	1407.30	1407.30	1407.30	1407.30
Oct-73	855.00	1040.40	1110.60	1110.60	1130.40	1180.80	1260.90	1332.30	1393.20	1453.80	1494.00	1494.00	1494.00	1494.00	1494.00	1494.00
Oct-74	902.10	1097.70	1171.80	1171.80	1192.80	1245.90	1330.50	1405.80	1470.00	1533.90	1576.50	1576.50	1576.50	1576.50	1576.50	1576.50
Oct-75	947.10	1152.60	1230.30	1230.30	1252.50	1308.30	1397.10	1476.00	1543.50	1610.70	1655.40	1655.40	1655.40	1655.40	1655.40	1655.40
Oct-76	981.30	1194.30	1274.70	1274.70	1297.80	1355.70	1447.80	1529.40	1599.30	1668.90	1715.40	1715.40	1715.40	1715.40	1715.40	1715.40
Oct-77	1042.20	1268.40	1353.60	1353.60	1378.20	1439.70	1537.50	1624.20	1698.60	1772.40	1821.90	1821.90	1821.90	1821.90	1821.90	1821.90
Oct-78	1099.50	1338.30	1428.00	1428.00	1454.10	1518.90	1622.10	1713.60	1791.90	1869.90	1922.10	1922.10	1922.10	1922.10	1922.10	1922.10

Pay Grade O-4																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-79	1176.60	1432.20	1528.20	1528.20	1556.10	1625.40	1736.10	1833.90	1917.60	2001.30	2057.10	2057.10	2057.10	2057.10	2057.10	2057.10
Oct-80	1314.30	1599.90	1707.00	1707.00	1738.20	1815.60	1939.20	2048.40	2142.00	2235.60	2297.70	2297.70	2297.70	2297.70	2297.70	2297.70
Oct-81	1502.10	1828.80	1951.20	1951.20	1986.90	2075.10	2216.10	2341.20	2448.30	2555.40	2626.20	2626.20	2626.20	2626.20	2626.20	2626.20
Oct-82	1562.10	1902.00	2029.20	2029.20	2066.40	2158.20	2305.20	2434.80	2546.10	2657.70	2731.20	2731.20	2731.20	2731.20	2731.20	2731.20
Jan-84	1624.50	1978.20	2110.50	2110.50	2149.20	2244.60	2397.30	2532.30	2647.80	2763.90	2840.40	2840.40	2840.40	2840.40	2840.40	2840.40
Jan-85	1689.60	2057.40	2194.80	2194.80	2235.30	2334.30	2493.30	2633.70	2753.70	2874.60	2954.10	2954.10	2954.10	2954.10	2954.10	2954.10
Oct-85	1740.30	2119.20	2260.50	2260.50	2302.50	2404.20	2568.00	2712.60	2836.20	2960.70	3042.60	3042.60	3042.60	3042.60	3042.60	3042.60
Jan-87	1792.50	2182.80	2328.30	2328.30	2371.50	2476.20	2645.10	2793.90	2921.40	3049.50	3133.80	3133.80	3133.80	3133.80	3133.80	3133.80
Jan-88	1828.50	2226.60	2374.80	2374.80	2418.90	2525.70	2697.90	2849.70	2979.90	3110.40	3196.50	3196.50	3196.50	3196.50	3196.50	3196.50
Jan-89	1903.50	2317.80	2472.30	2472.30	2518.20	2629.20	2808.60	2966.40	3102.00	3237.90	3327.60	3327.60	3327.60	3327.60	3327.60	3327.60
Jan-90	1971.90	2401.20	2561.40	2561.40	2608.80	2724.00	2909.70	3073.20	3213.60	3354.60	3447.30	3447.30	3447.30	3447.30	3447.30	3447.30
Jan-91	2052.60	2499.60	2666.40	2666.40	2715.90	2835.60	3029.10	3199.20	3345.30	3492.00	3588.60	3588.60	3588.60	3588.60	3588.60	3588.60
Jan-92	2138.70	2604.60	2778.30	2778.30	2829.90	2954.70	3156.30	3333.60	3485.70	3638.70	3739.20	3739.20	3739.20	3739.20	3739.20	3739.20
Jan-93	2217.90	2700.90	2881.20	2881.20	2934.60	3063.90	3273.00	3456.90	3614.70	3773.40	3877.50	3877.50	3877.50	3877.50	3877.50	3877.50
Jan-94	2266.80	2760.30	2944.50	2944.50	2999.10	3131.40	3345.00	3533.10	3694.20	3856.50	3862.70	3862.70	3862.70	3862.70	3862.70	3862.70
Jan-95	2325.60	2832.00	3021.00	3021.00	3077.10	3212.70	3432.00	3624.90	3790.20	3956.70	4065.60	4065.60	4065.60	4065.60	4065.60	4065.60
Jan-96	2381.40	2900.10	3093.60	3093.60	3150.90	3289.80	3514.50	3711.90	3881.10	4051.80	4163.10	4163.10	4163.10	4163.10	4163.10	4163.10
Jan-97	2452.80	2987.10	3186.30	3186.30	3245.40	3388.50	3619.80	3823.20	3997.50	4173.30	4287.90	4287.90	4287.90	4287.90	4287.90	4287.90
Jan-98	2521.50	3070.80	3275.40	3275.40	3336.30	3483.30	3721.20	3930.30	4109.40	4290.30	4407.90	4407.90	4407.90	4407.90	4407.90	4407.90
Jan-99	2612.40	3181.20	3393.30	3393.30	3456.30	3608.70	3855.30	4071.90	4257.30	4444.80	4566.60	4566.60	4566.60	4566.60	4566.60	4566.60
Jan-00	2737.80	3333.90	3556.20	3556.20	3622.20	3781.80	4040.40	4267.50	4461.60	4658.10	4785.90	4785.90	4785.90	4785.90	4785.90	4785.90
Jul-00	2737.80	3333.90	3556.20	3606.00	3812.40	3980.40	4252.50	4464.00	4611.00	4758.90	4808.70	4808.70	4808.70	4808.70	4808.70	4808.70
Jan-01	2839.20	3457.20	3687.90	3739.50	3953.40	4127.70	4409.70	4629.30	4781.70	4935.00	4986.60	4986.60	4986.60	4986.60	4986.60	4986.60
Jul-01	2839.20	3457.20	3687.90	3739.50	3953.40	4127.70	4409.70	4629.30	4781.70	4935.00	4986.60	4986.60	4986.60	4986.60	4986.60	4986.60
Jan-02	3023.70	3681.90	3927.60	3982.50	4210.50	4395.90	4696.20	4930.20	5092.50	5255.70	5310.60	5310.60	5310.60	5310.60	5310.60	5310.60

Pay Grade O-4																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-03	3311.10	3832.80	4088.70	4145.70	4383.00	4637.70	4954.50	5201.40	5372.70	5471.10	5528.40	5528.40	5528.40	5528.40	5528.40	5528.40
Jan-04	3433.50	3974.70	4239.90	4299.00	4545.30	4809.30	5137.80	5394.00	5571.60	5673.60	5733.00	5733.00	5733.00	5733.00	5733.00	5733.00
Jan-05	3553.80	4113.90	4388.40	4449.60	4704.30	4977.60	5317.50	5582.70	5766.60	5872.20	5933.70	5933.70	5933.70	5933.70	5933.70	5933.70
Jan-06	3663.90	4241.40	4524.30	4587.60	4850.10	5131.80	5482.20	5755.80	5945.40	6054.30	6117.60	6117.60	6117.60	6117.60	6117.60	6117.60
Jan-07	3744.60	4334.70	4623.90	4688.40	4956.90	5244.60	5602.80	5882.40	6076.20	6187.50	6252.30	6252.30	6252.30	6252.30	6252.30	6252.30
Jan-08	3875.70	4486.50	4785.60	4852.50	5130.30	5428.20	5799.00	6088.20	6288.90	6404.10	6471.00	6471.00	6471.00	6471.00	6471.00	6471.00
Jan-09	4026.90	4661.40	4972.20	5041.80	5330.40	5640.00	6025.20	6325.50	6534.30	6654.00	6723.30	6723.30	6723.30	6723.30	6723.30	6723.30
Jan-10	4163.70	4819.80	5141.40	5213.10	5511.60	5831.70	6230.10	6540.60	6756.60	6880.20	6951.90	6951.90	6951.90	6951.90	6951.90	6951.90
Jan-11	4221.90	4887.30	5213.40	5286.00	5588.70	5913.30	6317.40	6632.10	6851.10	6976.50	7049.10	7049.10	7049.10	7049.10	7049.10	7049.10
Jan-12	4289.40	4965.60	5296.80	5370.60	5678.10	6007.80	6418.50	6738.30	6960.60	7088.10	7161.90	7161.90	7161.90	7161.90	7161.90	7161.90
Jan-13	4362.30	5049.90	5386.80	5461.80	5774.70	6109.80	6527.70	6852.90	7078.80	7208.70	7283.70	7283.70	7283.70	7283.70	7283.70	7283.70
Jan-14	4405.80	5100.30	5440.80	5516.40	5832.30	6171.00	6593.10	6921.30	7149.60	7280.70	7356.60	7356.60	7356.60	7356.60	7356.60	7356.60
Jan-15	4449.90	5151.30	5495.10	5571.60	5890.50	6232.80	6659.10	6990.60	7221.00	7353.60	7430.10	7430.10	7430.10	7430.10	7430.10	7430.10

Pay Grade O-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-22	200.00	200.00	210.00	210.00	220.00	220.00	230.00	240.00	240.00	250.00	325.00	337.50	350.00	350.00	362.50	375.00
Jun-42	200.00	200.00	210.00	210.00	220.00	230.00	230.00	240.00	240.00	312.50	325.00	337.50	350.00	350.00	362.50	375.00
Jul-46	230.00	230.00	241.50	241.50	253.00	264.50	264.50	276.00	276.00	343.75	357.50	371.25	385.00	385.00	398.75	412.50
Oct-49	313.50	313.50	313.50	327.75	342.00	356.25	370.50	384.75	399.00	413.25	427.50	427.50	441.75	441.75	441.75	441.75
May-52	326.04	326.04	326.04	340.86	355.68	370.50	385.32	400.14	414.96	429.78	444.60	444.60	459.42	459.42	459.42	459.42
Apr-55	326.04	326.04	351.00	374.40	405.60	421.20	436.80	452.40	468.00	483.60	499.20	499.20	514.80	514.80	514.80	514.80

Pay Grade O-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jun-58	326.04	346.00	372.00	415.00	440.00	460.00	480.00	510.00	525.00	525.00	525.00	525.00	525.00	525.00	525.00	525.00
Oct-63	326.04	440.00	470.00	520.00	545.00	565.00	595.00	625.00	640.00	640.00	640.00	640.00	640.00	640.00	640.00	640.00
Sep-64	353.70	450.90	481.80	533.10	558.60	579.00	609.90	640.50	656.10	656.10	656.10	656.10	656.10	656.10	656.10	656.10
Sep-65	427.80	477.90	510.60	565.20	592.20	613.80	646.50	678.90	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40
Jul-66	441.60	493.20	526.80	583.20	611.10	633.30	667.20	700.50	717.60	717.60	717.60	717.60	717.60	717.60	717.60	717.60
Oct-67	466.20	520.80	556.20	615.90	645.30	668.70	704.70	739.80	757.80	757.80	757.80	757.80	757.80	757.80	757.80	757.80
Jul-68	498.30	556.80	594.60	658.50	689.70	714.90	753.30	790.80	810.00	810.00	810.00	810.00	810.00	810.00	810.00	810.00
Jul-69	561.00	627.00	669.60	741.60	776.70	804.90	848.10	890.40	912.00	912.00	912.00	912.00	912.00	912.00	912.00	912.00
Jan-70	606.30	677.70	723.90	801.60	839.70	870.00	916.80	962.40	985.80	985.80	985.80	985.80	985.80	985.80	985.80	985.80
Jan-71	654.30	731.10	781.20	864.90	906.00	938.70	989.10	1038.30	1063.80	1063.80	1063.80	1063.80	1063.80	1063.80	1063.80	1063.80
Nov-71	654.30	731.10	781.20	864.90	906.00	938.70	989.10	1038.30	1063.80	1063.80	1063.80	1063.80	1063.80	1063.80	1063.80	1063.80
Jan-72	701.40	783.90	837.60	927.30	971.40	1006.50	1060.50	1113.30	1140.60	1140.60	1140.60	1140.60	1140.60	1140.60	1140.60	1140.60
Oct-72	748.20	836.40	893.70	989.40	1036.50	1073.70	1131.30	1187.70	1216.80	1216.80	1216.80	1216.80	1216.80	1216.80	1216.80	1216.80
Oct-73	794.40	888.00	948.90	1050.30	1100.40	1140.00	1201.20	1260.90	1291.80	1291.80	1291.80	1291.80	1291.80	1291.80	1291.80	1291.80
Oct-74	838.20	936.90	1001.40	1108.20	1161.00	1203.00	1267.50	1330.50	1363.20	1363.20	1363.20	1363.20	1363.20	1363.20	1363.20	1363.20
Oct-75	880.20	983.70	1051.50	1163.70	1219.20	1263.30	1330.80	1397.10	1431.30	1431.30	1431.30	1431.30	1431.30	1431.30	1431.30	1431.30
Oct-76	912.00	1019.40	1089.60	1205.70	1263.30	1308.90	1379.10	1447.80	1483.20	1483.20	1483.20	1483.20	1483.20	1483.20	1483.20	1483.20
Oct-77	968.40	1082.70	1157.10	1280.40	1341.60	1390.20	1464.60	1537.50	1575.30	1575.30	1575.30	1575.30	1575.30	1575.30	1575.30	1575.30
Oct-78	1021.80	1142.10	1220.70	1350.90	1415.40	1466.70	1545.30	1622.10	1662.00	1662.00	1662.00	1662.00	1662.00	1662.00	1662.00	1662.00
Oct-79	1093.50	1222.20	1306.50	1445.70	1514.70	1569.60	1653.90	1736.10	1778.70	1778.70	1778.70	1778.70	1778.70	1778.70	1778.70	1778.70
Oct-80	1221.30	1365.30	1459.50	1614.90	1692.00	1753.20	1847.40	1939.20	1986.90	1986.90	1986.90	1986.90	1986.90	1986.90	1986.90	1986.90
Oct-81	1395.90	1560.60	1668.30	1845.90	1934.10	2004.00	2111.70	2216.40	2271.00	2271.00	2271.00	2271.00	2271.00	2271.00	2271.00	2271.00
Oct-82	1451.70	1623.00	1734.90	1919.70	2011.50	2084.10	2196.30	2305.20	2361.90	2361.90	2361.90	2361.90	2361.90	2361.90	2361.90	2361.90
Jan-84	1509.90	1687.80	1804.20	1996.50	2091.90	2167.50	2284.20	2397.30	2456.40	2456.40	2456.40	2456.40	2456.40	2456.40	2456.40	2456.40
Jan-85	1570.20	1755.30	1876.50	2076.30	2175.60	2254.20	2375.70	2493.30	2554.80	2554.80	2554.80	2554.80	2554.80	2554.80	2554.80	2554.80

Pay Grade O-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-85	1617.30	1808.10	1932.90	2138.70	2241.00	2321.70	2447.10	2568.00	2631.30	2631.30	2631.30	2631.30	2631.30	2631.30	2631.30	2631.30
Jan-87	1665.90	1862.40	1990.80	2202.90	2308.20	2391.30	2520.60	2645.10	2710.20	2710.20	2710.20	2710.20	2710.20	2710.20	2710.20	2710.20
Jan-88	1699.20	1899.60	2030.70	2247.00	2354.40	2439.00	2571.00	2697.90	2764.50	2764.50	2764.50	2764.50	2764.50	2764.50	2764.50	2764.50
Jan-89	1768.80	1977.60	2114.10	2339.10	2451.00	2538.90	2676.30	2808.60	2877.90	2877.90	2877.90	2877.90	2877.90	2877.90	2877.90	2877.90
Jan-90	1832.40	2048.70	2190.30	2423.40	2539.20	2630.40	2772.60	2909.70	2981.40	2981.40	2981.40	2981.40	2981.40	2981.40	2981.40	2981.40
Jan-91	1907.40	2132.70	2280.00	2522.70	2643.30	2738.10	2886.30	3029.10	3103.50	3103.50	3103.50	3103.50	3103.50	3103.50	3103.50	3103.50
Jan-92	1987.50	2222.40	2375.70	2628.60	2754.30	2853.00	3007.50	3156.30	3233.70	3233.70	3233.70	3233.70	3233.70	3233.70	3233.70	3233.70
Jan-93	2061.00	2304.60	2463.60	2725.80	2856.30	2958.60	3118.80	3273.00	3353.40	3353.40	3353.40	3353.40	3353.40	3353.40	3353.40	3353.40
Jan-94	2106.30	2355.30	2517.90	2785.80	2919.00	3023.70	3187.50	3345.00	3427.20	3427.20	3427.20	3427.20	3427.20	3427.20	3427.20	3427.20
Jan-95	2161.20	2416.50	2583.30	2858.10	2994.90	3102.30	3270.30	3432.00	3516.30	3516.30	3516.30	3516.30	3516.30	3516.30	3516.30	3516.30
Jan-96	2213.10	2474.40	2645.40	2926.80	3066.90	3176.70	3348.90	3514.50	3600.60	3600.60	3600.60	3600.60	3600.60	3600.60	3600.60	3600.60
Jan-97	2279.40	2548.50	2724.90	3014.70	3159.00	3272.10	3449.40	3619.80	3708.60	3708.60	3708.60	3708.60	3708.60	3708.60	3708.60	3708.60
Jan-98	2343.30	2619.90	2801.10	3099.00	3247.50	3363.60	3546.00	3721.20	3812.40	3812.40	3812.40	3812.40	3812.40	3812.40	3812.40	3812.40
Jan-99	2427.60	2714.10	2901.90	3210.60	3364.50	3484.80	3673.80	3855.30	3949.50	3949.50	3949.50	3949.50	3949.50	3949.50	3949.50	3949.50
Jan-00	2544.00	2844.30	3041.10	3364.80	3525.90	3652.20	3850.20	4040.40	4139.10	4139.10	4139.10	4139.10	4139.10	4139.10	4139.10	4139.10
Jul-00	2544.00	2884.20	3112.80	3364.80	3525.90	3702.60	3850.20	4040.40	4139.10	4139.10	4139.10	4139.10	4139.10	4139.10	4139.10	4139.10
Jan-01	2638.20	2991.00	3228.00	3489.30	3656.40	3839.70	3992.70	4189.80	4292.10	4292.10	4292.10	4292.10	4292.10	4292.10	4292.10	4292.10
Jan-02	2796.60	3170.40	3421.80	3698.70	3875.70	4070.10	4232.40	4441.20	4549.50	4549.50	4549.50	4549.50	4549.50	4549.50	4549.50	4549.50
Jan-03	2911.20	3300.30	3562.20	3883.50	4069.50	4273.50	4405.80	4623.30	4736.10	4736.10	4736.10	4736.10	4736.10	4736.10	4736.10	4736.10
Jan-04	3018.90	3422.40	3693.90	4027.20	4220.10	4431.60	4568.70	4794.30	4911.30	4911.30	4911.30	4911.30	4911.30	4911.30	4911.30	4911.30
Jan-05	3124.50	3542.10	3823.20	4168.20	4367.70	4586.70	4728.60	4962.00	5083.20	5083.20	5083.20	5083.20	5083.20	5083.20	5083.20	5083.20
Jan-06	3221.40	3651.90	3941.70	4297.50	4503.00	4728.90	4875.30	5115.90	5240.70	5240.70	5240.70	5240.70	5240.70	5240.70	5240.70	5240.70
Jan-07	3292.20	3732.30	4028.40	4392.00	4602.00	4833.00	4982.70	5228.40	5355.90	5355.90	5355.90	5355.90	5355.90	5355.90	5355.90	5355.90
Jan-08	3407.40	3862.80	4169.40	4545.60	4763.10	5002.20	5157.00	5411.40	5543.40	5543.40	5543.40	5543.40	5543.40	5543.40	5543.40	5543.40
Jan-09	3540.30	4013.40	4332.00	4722.90	4948.80	5197.20	5358.00	5622.30	5759.70	5759.70	5759.70	5759.70	5759.70	5759.70	5759.70	5759.70

Pay Grade O-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-10	3660.60	4149.90	4479.30	4883.40	5117.10	5373.90	5540.10	5813.40	5955.60	5955.60	5955.60	5955.60	5955.60	5955.60	5955.60	5955.60
Jan-11	3711.90	4208.10	4542.00	4951.80	5188.80	5449.20	5617.80	5894.70	6039.00	6039.00	6039.00	6039.00	6039.00	6039.00	6039.00	6039.00
Jan-12	3771.30	4275.30	4614.60	5031.00	5271.90	5536.50	5707.80	5988.90	6135.60	6135.60	6135.60	6135.60	6135.60	6135.60	6135.60	6135.60
Jan-13	3835.50	4347.90	4692.90	5116.50	5361.60	5630.70	5804.70	6090.60	6240.00	6240.00	6240.00	6240.00	6240.00	6240.00	6240.00	6240.00
Jan-14	3873.90	4391.40	4739.70	5167.80	5415.30	5687.10	5862.60	6151.50	6302.40	6302.40	6302.40	6302.40	6302.40	6302.40	6302.40	6302.40
Jan-15	3912.60	4435.20	4787.10	5219.40	5469.60	5744.10	5921.10	6213.00	6365.40	6365.40	6365.40	6365.40	6365.40	6365.40	6365.40	6365.40

Pay Grade O-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-22	166.67	166.67	175.00	175.00	183.33	183.33	191.67	240.00	240.00	250.00	260.00	270.00	280.00	280.00	290.00	300.00
Jun-42	166.67	166.67	175.00	175.00	183.33	191.67	230.00	240.00	240.00	250.00	260.00	270.00	280.00	280.00	290.00	300.00
Jul-46	200.00	200.00	210.00	210.00	220.00	230.00	264.50	276.00	276.00	287.50	299.00	310.50	322.00	322.00	333.50	345.00
Oct-49	249.38	263.63	263.63	277.88	292.13	306.38	320.63	334.88	349.13	349.13	349.13	349.13	349.13	349.13	349.13	349.13
May-52	259.36	274.18	274.18	289.00	303.82	318.64	333.46	348.28	363.10	363.10	363.10	363.10	363.10	363.10	363.10	363.10
Apr-55	259.36	274.18	335.40	335.40	351.00	366.60	382.20	397.80	413.40	413.40	413.40	413.40	413.40	413.40	413.40	413.40
Jun-58	259.36	291.00	360.00	370.00	380.00	380.00	380.00	380.00	380.00	380.00	380.00	380.00	380.00	380.00	380.00	380.00
Oct-63	259.36	375.00	450.00	465.00	475.00	475.00	475.00	475.00	475.00	475.00	475.00	475.00	475.00	475.00	475.00	475.00
Sep-64	281.40	384.30	461.40	476.70	486.90	486.90	486.90	486.90	486.90	486.90	486.90	486.90	486.90	486.90	486.90	486.90
Sep-65	342.60	407.40	489.00	505.20	516.00	516.00	516.00	516.00	516.00	516.00	516.00	516.00	516.00	516.00	516.00	516.00
Jul-66	353.70	420.30	504.60	521.40	532.50	532.50	532.50	532.50	532.50	532.50	532.50	532.50	532.50	532.50	532.50	532.50
Oct-67	373.50	443.70	532.80	550.50	562.20	562.20	562.20	562.20	562.20	562.20	562.20	562.20	562.20	562.20	562.20	562.20

Pay Grade O-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-68	399.30	474.30	569.70	588.60	600.90	600.90	600.90	600.90	600.90	600.90	600.90	600.90	600.90	600.90	600.90	600.90
Jul-69	449.70	534.00	641.40	662.70	676.50	676.50	676.50	676.50	676.50	676.50	676.50	676.50	676.50	676.50	676.50	676.50
Jan-70	486.00	577.20	693.30	716.40	731.40	731.40	731.40	731.40	731.40	731.40	731.40	731.40	731.40	731.40	731.40	731.40
Jan-71	524.40	622.80	748.20	773.10	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30
Nov-71	570.30	622.80	748.20	773.10	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30	789.30
Jan-72	611.40	667.80	802.20	828.90	846.30	846.30	846.30	846.30	846.30	846.30	846.30	846.30	846.30	846.30	846.30	846.30
Oct-72	652.20	712.50	855.90	884.40	903.00	903.00	903.00	903.00	903.00	903.00	903.00	903.00	903.00	903.00	903.00	903.00
Oct-73	692.40	756.60	908.70	939.00	958.80	958.80	958.80	958.80	958.80	958.80	958.80	958.80	958.80	958.80	958.80	958.80
Oct-74	730.50	798.30	958.80	990.90	1011.60	1011.60	1011.60	1011.60	1011.60	1011.60	1011.60	1011.60	1011.60	1011.60	1011.60	1011.60
Oct-75	767.10	838.20	1006.80	1040.40	1062.30	1062.30	1062.30	1062.30	1062.30	1062.30	1062.30	1062.30	1062.30	1062.30	1062.30	1062.30
Oct-76	795.00	868.50	1043.10	1078.20	1100.70	1100.70	1100.70	1100.70	1100.70	1100.70	1100.70	1100.70	1100.70	1100.70	1100.70	1100.70
Oct-77	844.20	922.20	1107.90	1145.10	1168.80	1168.80	1168.80	1168.80	1168.80	1168.80	1168.80	1168.80	1168.80	1168.80	1168.80	1168.80
Oct-78	890.70	972.90	1168.80	1208.10	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00
Oct-79	953.10	1041.30	1250.70	1293.00	1319.70	1319.70	1319.70	1319.70	1319.70	1319.70	1319.70	1319.70	1319.70	1319.70	1319.70	1319.70
Oct-80	1064.70	1163.10	1397.10	1444.20	1474.20	1474.20	1474.20	1474.20	1474.20	1474.20	1474.20	1474.20	1474.20	1474.20	1474.20	1474.20
Oct-81	1217.10	1329.30	1596.90	1650.60	1685.10	1685.10	1685.10	1685.10	1685.10	1685.10	1685.10	1685.10	1685.10	1685.10	1685.10	1685.10
Oct-82	1265.70	1382.40	1660.80	1716.60	1752.60	1752.60	1752.60	1752.60	1752.60	1752.60	1752.60	1752.60	1752.60	1752.60	1752.60	1752.60
Jan-84	1316.40	1437.60	1727.10	1785.30	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80
Jan-85	1369.20	1495.20	1796.10	1856.70	1895.70	1895.70	1895.70	1895.70	1895.70	1895.70	1895.70	1895.70	1895.70	1895.70	1895.70	1895.70
Oct-85	1410.30	1540.20	1830.10	1912.50	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70
Jan-87	1452.60	1586.40	1905.60	1969.80	2011.20	2011.20	2011.20	2011.20	2011.20	2011.20	2011.20	2211.20	2011.20	2011.20	2011.20	2011.20
Jan-88	1481.70	1618.20	1943.70	2009.10	2051.40	2051.40	2051.40	2051.40	2051.40	2051.40	2051.40	2051.40	2051.40	2051.40	2051.40	2051.40
Jan-89	1542.30	1684.50	2023.50	2091.60	2135.40	2135.40	2135.40	2135.40	2135.40	2135.40	2135.40	2135.40	2135.40	2135.40	2135.40	2135.40
Jan-90	1597.80	1745.10	2096.40	2166.90	2212.20	2212.20	2212.20	2212.20	2212.20	2212.20	2212.20	2212.20	2212.20	2212.20	2212.20	2212.20
Jan-91	1663.20	1816.50	2182.50	2255.70	2302.80	2302.80	2302.80	2302.80	2302.80	2302.80	2302.80	2302.80	2302.80	2302.80	2302.80	2302.80

Pay Grade O-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-92	1733.10	1892.70	2274.30	2350.50	2399.40	2399.40	2399.40	2399.40	2399.40	2399.40	2399.40	2399.40	2399.40	2399.40	2399.40	2399.40
Jan-93	1797.30	1962.60	2358.30	2437.50	2488.20	2488.20	2488.20	2488.20	2488.20	2488.20	2488.20	2488.20	2488.20	2488.20	2488.20	2488.20
Jan-94	1836.90	2005.80	2410.20	2491.20	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80
Jan-95	1884.60	2058.00	2472.90	2556.00	2608.80	2608.80	2608.80	2608.80	2608.80	2608.80	2608.80	2608.80	2608.80	2608.80	2608.80	2608.80
Jan-96	1929.90	2107.50	2532.30	2617.20	2671.50	2671.50	2671.50	2671.50	2671.50	2671.50	2671.50	2671.50	2671.50	2671.50	2671.50	2671.50
Jan-97	1987.80	2170.80	2608.20	2695.80	2751.60	2751.60	2751.60	2751.60	2751.60	2751.60	2751.60	2751.60	2751.60	2751.60	2751.60	2751.60
Jan-98	2043.60	2231.70	2681.10	2771.40	2828.70	2828.70	2828.70	2828.70	2828.70	2828.70	2828.70	2828.70	2828.70	2828.70	2828.70	2828.70
Jan-99	2117.10	2312.10	2777.70	2871.30	2930.40	2930.40	2930.40	2930.40	2930.40	2930.40	2930.40	2930.40	2930.40	2930.40	2930.40	2930.40
Jan-00	2218.80	2423.10	2910.90	3009.00	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10
Jul-00	2218.80	2527.20	2910.90	3009.00	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10	3071.10
Jan-01	2301.00	2620.80	3018.60	3120.30	3184.80	3184.80	3184.80	3184.80	3184.80	3184.80	3184.80	3184.80	3184.80	3184.80	3184.80	3184.80
Jan-02	2416.20	2751.90	3169.50	3276.30	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10
Jan-03	2515.20	2864.70	3299.40	3410.70	3481.20	3481.20	3481.20	3481.20	3481.20	3481.20	3481.20	3481.20	3481.20	3481.20	3481.20	3481.20
Jan-04	2608.20	2970.60	3421.50	3537.00	3609.90	3609.90	3609.90	3609.90	3609.90	3609.90	3609.90	3609.90	3609.90	3609.90	3609.90	3609.90
Jan-05	2699.40	3074.70	3541.20	3660.90	3736.20	3736.20	3736.20	3736.20	3736.20	3736.20	3736.20	3736.20	3736.20	3736.20	3736.20	3736.20
Jan-06	2783.10	3170.10	3651.00	3774.30	3852.00	3852.00	3852.00	3852.00	3852.00	3852.00	3852.00	3852.00	3852.00	3852.00	3852.00	3852.00
Jan-07	2844.30	3239.70	3731.40	3857.40	3936.60	3936.60	3936.60	3936.60	3936.60	3936.60	3936.60	3936.60	3936.60	3936.60	3936.60	3936.60
Jan-08	2943.90	3353.10	3861.90	3992.40	4074.30	4074.30	4074.30	4074.30	4074.30	4074.30	4074.30	4074.30	4074.30	4074.30	4074.30	4074.30
Jan-09	3058.80	3483.90	4012.50	4148.10	4233.30	4233.30	4233.30	4233.30	4233.30	4233.30	4233.30	4233.30	4233.30	4233.30	4233.30	4233.30
Jan-10	3162.90	3602.40	4149.00	4289.10	4377.30	4377.30	4377.30	4377.30	4377.30	4377.30	4377.30	4377.30	4377.30	4377.30	4377.30	4377.30
Jan-11	3207.30	3652.80	4207.20	4349.10	4438.50	4438.50	4438.50	4438.50	4438.50	4438.50	4438.50	4438.50	4438.50	4438.50	4438.50	4438.50
Jan-12	3258.60	3711.30	4274.40	4418.70	4509.60	4509.60	4509.60	4509.60	4509.60	4509.60	4509.60	4509.60	4509.60	4509.60	4509.60	4509.60
Jan-13	3314.10	3774.30	4347.00	4493.70	4586.40	4586.40	4586.40	4586.40	4586.40	4586.40	4586.40	4586.40	4586.40	4586.40	4586.40	4586.40
Jan-14	3347.10	3812.10	4390.50	4538.70	4632.30	4632.30	4632.30	4632.30	4632.30	4632.30	4632.30	4632.30	4632.30	4632.30	4632.30	4632.30
Jan-15	3380.70	3850.20	4434.30	4584.00	4678.50	4678.50	4678.50	4678.50	4678.50	4678.50	4678.50	4678.50	4678.50	4678.50	4678.50	4678.50

Pay Grade O-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-22	125.00	125.00	131.25	131.25	183.33	183.33	191.67	200.00	200.00	208.33	216.67	225.00	233.33	233.33	241.67	250.00
Jun-42	150.00	150.00	157.50	157.50	183.33	183.33	191.67	200.00	200.00	208.33	216.67	225.00	233.33	233.33	241.67	250.00
Jul-46	180.00	180.00	189.00	189.00	220.00	230.00	230.00	240.00	240.00	250.00	260.00	270.00	280.00	280.00	290.00	300.00
Oct-49	213.75	228.00	228.00	242.25	256.50	270.75	285.00	299.25	313.50	313.50	313.50	313.50	313.50	313.50	313.50	313.50
May-52	222.30	237.12	237.12	251.94	266.76	281.58	296.40	311.22	326.04	326.04	326.04	326.04	326.04	326.04	326.04	326.04
Apr-55	222.30	237.12	296.40	296.40	312.00	327.60	343.20	358.80	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40
Jun-58	222.30	251.00	314.00	314.00	314.00	314.00	314.00	314.00	314.00	314.00	314.00	314.00	314.00	314.00	314.00	314.00
Oct-63	222.30	300.00	375.00	375.00	375.00	375.00	375.00	375.00	375.00	375.00	375.00	375.00	375.00	375.00	375.00	375.00
Sep-64	241.20	307.50	384.30	384.30	384.30	384.30	384.30	384.30	384.30	384.30	384.30	384.30	384.30	384.30	384.30	384.30
Sep-65	294.60	325.80	407.40	407.40	407.40	407.40	407.40	407.40	407.40	407.40	407.40	407.40	407.40	407.40	407.40	407.40
Jul-66	303.90	336.30	420.30	420.30	420.30	420.30	420.30	420.30	420.30	420.30	420.30	420.30	420.30	420.30	420.30	420.30
Oct-67	321.00	355.20	443.70	443.70	443.70	443.70	443.70	443.70	443.70	443.70	443.70	443.70	443.70	443.70	443.70	443.70
Jul-68	343.20	379.80	474.30	474.30	474.30	474.30	474.30	474.30	474.30	474.30	474.30	474.30	474.30	474.30	474.30	474.30
Jul-69	386.40	427.80	534.00	534.00	534.00	534.00	534.00	534.00	534.00	534.00	534.00	534.00	534.00	534.00	534.00	534.00
Jan-70	417.60	462.60	577.20	577.20	577.20	577.20	577.20	577.20	577.20	577.20	577.20	577.20	577.20	577.20	577.20	577.20
Jan-71	450.60	499.20	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80
Nov-71	495.00	515.40	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80	622.80
Jan-72	530.70	552.60	667.80	667.80	667.80	667.80	667.80	667.80	667.80	667.80	667.80	667.80	667.80	667.80	667.80	667.80
Oct-72	566.10	589.50	712.50	712.50	712.50	712.50	712.50	712.50	712.50	712.50	712.50	712.50	712.50	712.50	712.50	712.50
Oct-73	600.90	625.80	756.60	756.60	756.60	756.60	756.60	756.60	756.60	756.60	756.60	756.60	756.60	756.60	756.60	756.60
Oct-74	634.20	660.30	798.30	798.30	798.30	798.30	798.30	798.30	798.30	798.30	798.30	798.30	798.30	798.30	798.30	798.30
Oct-75	666.00	693.30	838.20	838.20	838.20	838.20	838.20	838.20	838.20	838.20	838.20	838.20	838.20	838.20	838.20	838.20
Oct-76	690.00	718.50	868.50	868.50	868.50	868.50	868.50	868.50	868.50	868.50	868.50	868.50	868.50	868.50	868.50	868.50
Oct-77	732.90	762.90	922.20	922.20	922.20	922.20	922.20	922.20	922.20	922.20	922.20	922.20	922.20	922.20	922.20	922.20

Pay Grade O-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-78	773.10	804.90	972.90	972.90	972.90	972.90	972.90	972.90	972.90	972.90	972.90	972.90	972.90	972.90	972.90	972.90
Oct-79	827.40	861.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30	1041.30
Oct-80	924.30	962.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10	1163.10
Oct-81	1056.60	1099.80	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30	1329.30
Oct-82	1098.90	1143.90	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40	1382.40
Jan-84	1143.00	1189.80	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60
Jan-85	1188.60	1237.50	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20	1495.20
Oct-85	1224.30	1274.70	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20
Jan-87	1260.90	1312.80	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40	1586.40
Jan-88	1286.10	1339.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20	1618.20
Jan-89	1338.90	1394.10	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50	1684.50
Jan-90	1387.20	1444.20	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10	1745.10
Jan-91	1444.20	1503.30	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50	1816.50
Jan-92	1504.80	1566.30	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70	1892.70
Jan-93	1560.60	1624.20	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60	1962.60
Jan-94	1594.80	1659.90	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80
Jan-95	1636.20	1703.10	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00	2058.00
Jan-96	1675.50	1743.90	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50	2107.50
Jan-97	1725.90	1796.10	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80	2170.80
Jan-98	1774.20	1846.50	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70	2231.70
Jan-99	1838.10	1913.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10	2312.10
Jan-00	1926.30	2004.90	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10	2423.10
Jan-01	1997.70	2079.00	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80	2512.80
Jan-02	2097.60	2183.10	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50
Jan-03	2183.70	2272.50	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80	2746.80

Pay Grade O-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-04	2264.40	2356.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50	2848.50
Jan-05	2343.60	2439.00	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10	2948.10
Jan-06	2416.20	2514.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60	3039.60
Jan-07	2469.30	2569.80	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50	3106.50
Jan-08	2555.70	2659.80	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10	3215.10
Jan-09	2655.30	2763.60	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50	3340.50
Jan-10	2745.60	2857.50	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20	3454.20
Jan-11	2784.00	2897.40	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50	3502.50
Jan-12	2828.40	2943.90	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60	3558.60
Jan-13	2876.40	2994.00	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20	3619.20
Jan-14	2905.20	3024.00	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50	3655.50
Jan-15	2934.30	3054.30	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10	3692.10

Pay Grade O-3E																
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Jun-58				414.90	440.10	459.90	480.00	510.00	534.90	534.90	534.90	534.90	534.90	534.90	534.90	534.90
Oct-63				519.90	545.10	564.90	594.90	624.90	650.10	650.10	650.10	650.10	650.10	650.10	650.10	650.10
Sep-64				533.10	558.60	579.00	609.90	640.50	666.30	666.30	666.30	666.30	666.30	666.30	666.30	666.30
Sep-65				565.20	592.20	613.80	646.50	678.90	706.20	706.20	706.20	706.20	706.20	706.20	706.20	706.20
Jul-66				583.20	611.10	633.30	667.20	700.50	728.70	728.70	728.70	728.70	728.70	728.70	728.70	728.70
Oct-67				615.90	645.30	668.70	704.70	739.80	769.50	769.50	769.50	769.50	769.50	769.50	769.50	769.50
Jul-68				658.50	689.70	714.90	753.30	790.80	822.60	822.60	822.60	822.60	822.60	822.60	822.60	822.60

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Jul-69				741.60	776.70	804.90	848.10	890.40	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10
Jan-70				801.60	839.70	870.00	916.80	962.40	1001.10	1001.10	1001.10	1001.10	1001.10	1001.10	1001.10	1001.10
Jan-71				864.90	906.00	938.70	989.10	1038.30	1080.30	1080.30	1080.30	1080.30	1080.30	1080.30	1080.30	1080.30
Nov-71				864.90	906.00	938.70	989.10	1038.30	1080.30	1080.30	1080.30	1080.30	1080.30	1080.30	1080.30	1080.30
Jan-72				927.30	971.40	1006.50	1060.50	1113.30	1158.30	1158.30	1158.30	1158.30	1158.30	1158.30	1158.30	1158.30
Oct-72				989.40	1036.50	1073.70	1131.30	1187.70	1235.70	1235.70	1235.70	1235.70	1235.70	1235.70	1235.70	1235.70
Oct-73				1050.30	1100.40	1140.00	1201.20	1260.90	1311.90	1311.90	1311.90	1311.90	1311.90	1311.90	1311.90	1311.90
Oct-74				1108.20	1161.00	1203.00	1267.50	1330.50	1384.20	1384.20	1384.20	1384.20	1384.20	1384.20	1384.20	1384.20
Oct-75				1163.70	1218.90	1263.00	1330.80	1397.10	1453.50	1453.50	1453.50	1453.50	1453.50	1453.50	1453.50	1453.50
Oct-76				1205.70	1263.30	1308.90	1379.10	1447.80	1506.00	1506.00	1506.00	1506.00	1506.00	1506.00	1506.00	1506.00
Oct-77				1280.40	1341.60	1390.20	1464.60	1537.50	1599.30	1599.30	1599.30	1599.30	1599.30	1599.30	1599.30	1599.30
Oct-78				1350.90	1415.40	1466.70	1545.30	1622.10	1687.20	1687.20	1687.20	1687.20	1687.20	1687.20	1687.20	1687.20
Oct-79				1445.70	1514.70	1569.60	1653.90	1736.10	1805.70	1805.70	1805.70	1805.70	1805.70	1805.70	1805.70	1805.70
Oct-80				1614.90	1692.00	1753.20	1847.40	1939.20	2016.90	2016.90	2016.90	2016.90	2016.90	2016.90	2016.90	2016.90
Oct-81				1845.90	1934.10	2004.00	2111.70	2216.40	2305.20	2305.20	2305.20	2305.20	2305.20	2305.20	2305.20	2305.20
Oct-82				1919.70	2011.50	2084.10	2196.30	2305.20	2397.30	2397.30	2397.30	2397.30	2397.30	2397.30	2397.30	2397.30
Jan-84				1996.50	2091.90	2167.50	2284.20	2397.30	2493.30	2493.30	2493.30	2493.30	2493.30	2493.30	2493.30	2493.30
Jan-85				2076.30	2175.60	2254.20	2375.70	2493.30	2592.90	2592.90	2592.90	2592.90	2592.90	2592.90	2592.90	2592.90
Oct-85				2138.70	2241.00	2321.70	2447.10	2568.00	2670.60	2670.60	2670.60	2670.60	2670.60	2670.60	2670.60	2670.60
Jan-87				2202.90	2308.20	2391.30	2520.60	2645.10	2750.70	2750.70	2750.70	2750.70	2750.70	2750.70	2750.70	2750.70
Jan-88				2247.00	2354.40	2439.00	2571.00	2697.90	2805.60	2805.60	2805.60	2805.60	2805.60	2805.60	2805.60	2805.60
Jan-89				2339.10	2451.00	2538.90	2676.30	2808.60	2920.50	2920.50	2920.50	2920.50	2920.50	2920.50	2920.50	2920.50
Jan-90				2423.40	2539.20	2630.40	2772.60	2909.70	3025.50	3025.50	3025.50	3025.50	3025.50	3025.50	3025.50	3025.50
Jan-91				2522.70	2643.30	2738.10	2886.30	3029.10	3149.40	3149.40	3149.40	3149.40	3149.40	3149.40	3149.40	3149.40
Jan-92				2628.60	2754.30	2853.00	3007.50	3156.30	3281.70	3281.70	3281.70	3281.70	3281.70	3281.70	3281.70	3281.70

Pay Grade O-3E																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-93				2725.80	2856.30	2958.60	3118.80	3273.00	3403.20	3403.20	3403.20	3403.20	3403.20	3403.20	3403.20	3403.20
Jan-94				2785.80	2919.00	3023.70	3187.50	3345.00	3478.20	3478.20	3478.20	3478.20	3478.20	3478.20	3478.20	3478.20
Jan-95				2858.10	2994.90	3102.30	3270.30	3432.00	3568.50	3568.50	3568.50	3568.50	3568.50	3568.50	3568.50	3568.50
Jan-96				2926.80	3066.90	3176.70	3348.90	3514.50	3654.00	3654.00	3654.00	3654.00	3654.00	3654.00	3654.00	3654.00
Jan-97				3014.70	3159.00	3272.10	3449.40	3619.80	3763.50	3763.50	3763.50	3763.50	3763.50	3763.50	3763.50	3763.50
Jan-98				3099.00	3247.50	3363.60	3546.00	3721.20	3868.80	3868.80	3868.80	3868.80	3868.80	3868.80	3868.80	3868.80
Jan-99				3210.60	3364.50	3484.80	3673.80	3855.30	4008.00	4008.00	4008.00	4008.00	4008.00	4008.00	4008.00	4008.00
Jan-00				3364.80	3525.90	3652.20	3850.20	4040.40	4200.30	4200.30	4200.30	4200.30	4200.30	4200.30	4200.30	4200.30
Jul-00				3364.80	3525.90	3702.60	3850.20	4040.40	4200.30	4291.80	4416.90	4416.90	4416.90	4416.90	4416.90	4416.90
Jan-01				3489.30	3656.40	3839.70	3992.70	4189.80	4355.70	4450.50	4580.40	4580.40	4580.40	4580.40	4580.40	4580.40
Jan-02				3698.70	3875.70	4070.10	4232.40	4441.20	4617.00	4717.50	4855.20	4855.20	4855.20	4855.20	4855.20	4855.20
Jan-03				3883.50	4069.50	4273.50	4405.80	4623.30	4806.30	4911.00	5054.40	5054.40	5054.40	5054.40	5054.40	5054.40
Jan-04				4027.20	4220.10	4431.60	4568.70	4794.30	4984.20	5092.80	5241.30	5241.30	5241.30	5241.30	5241.30	5241.30
Jan-05				4168.20	4367.70	4586.70	4728.60	4962.00	5158.50	5271.00	5424.60	5424.60	5424.60	5424.60	5424.60	5424.60
Jan-06				4297.50	4503.00	4728.90	4875.30	5115.90	5318.40	5434.50	5592.90	5592.90	5592.90	5592.90	5592.90	5592.90
Jan-07				4392.00	4602.00	4833.00	4982.70	5228.40	5435.40	5554.20	5715.90	5715.90	5715.90	5715.90	5715.90	5715.90
Jan-08				4545.60	4763.10	5002.20	5157.00	5411.40	5625.60	5748.60	5916.00	5916.00	5916.00	5916.00	5916.00	5916.00
Jan-09				4722.90	4948.80	5197.20	5358.00	5622.30	5844.90	5972.70	6146.70	6146.70	6146.70	6146.70	6146.70	6146.70
Jan-10				4883.40	5117.10	5373.90	5540.10	5813.40	6043.50	6175.80	6355.80	6355.80	6355.80	6355.80	6355.80	6355.80
Jan-11				4951.80	5188.80	5449.20	5617.80	5894.70	6128.10	6262.20	6444.90	6444.90	6444.90	6444.90	6444.90	6444.90
Jan-12				5031.00	5271.90	5536.50	5707.80	5988.90	6226.20	6362.40	6548.10	6548.10	6548.10	6548.10	6548.10	6548.10
Jan-13				5116.50	5361.60	5630.70	5804.70	6090.60	6332.10	6470.70	6659.40	6659.40	6659.40	6659.40	6659.40	6659.40
Jan-14				5167.80	5415.30	5687.10	5862.60	6151.50	6395.40	6535.50	6726.00	6726.00	6726.00	6726.00	6726.00	6726.00
Jan-15				5219.40	5469.60	5744.10	5921.10	6213.00	6459.30	6600.90	6793.20	6793.20	6793.20	6793.20	6793.20	6793.20

Pay Grade O-2E																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jun-58				369.90	380.10	395.10	414.90	435.00	450.00	450.00	450.00	450.00	450.00	450.00	450.00	450.00
Oct-63				465.00	474.90	489.90	515.10	534.90	549.90	549.90	549.90	549.90	549.90	549.90	549.90	549.90
Sep-64				476.70	486.90	502.20	528.00	548.40	563.70	563.70	563.70	563.70	563.70	563.70	563.70	563.70
Sep-65				505.20	516.00	532.20	559.80	581.40	597.60	597.60	597.60	597.60	597.60	597.60	597.60	597.60
Jul-66				521.40	532.50	549.30	577.80	600.00	616.80	616.80	616.80	616.80	616.80	616.80	616.80	616.80
Oct-67				550.50	562.20	580.20	610.20	633.60	651.30	651.30	651.30	651.30	651.30	651.30	651.30	651.30
Jul-68				588.60	600.90	620.10	652.20	677.40	696.30	696.30	696.30	696.30	696.30	696.30	696.30	696.30
Jul-69				662.70	676.50	698.10	734.40	762.90	783.90	783.90	783.90	783.90	783.90	783.90	783.90	783.90
Jan-70				716.40	731.40	754.50	793.80	824.70	847.50	847.50	847.50	847.50	847.50	847.50	847.50	847.50
Jan-71				773.10	789.30	814.20	856.50	889.80	914.40	914.40	914.40	914.40	914.40	914.40	914.40	914.40
Nov-71				773.10	789.30	814.20	856.50	889.80	914.40	914.40	914.40	914.40	914.40	914.40	914.40	914.40
Jan-72				828.90	846.30	873.00	918.30	954.00	980.40	980.40	980.40	980.40	980.40	980.40	980.40	980.40
Oct-72				884.40	903.00	931.50	979.80	1017.90	1046.10	1046.10	1046.10	1046.10	1046.10	1046.10	1046.10	1046.10
Oct-73				939.00	958.80	989.10	1040.40	1080.60	1110.60	1110.60	1110.60	1110.60	1110.60	1110.60	1110.60	1110.60
Oct-74				990.90	1011.60	1043.70	1097.70	1140.30	1171.80	1171.80	1171.80	1171.80	1171.80	1171.80	1171.80	1171.80
Oct-75				1040.40	1062.30	1095.90	1152.60	1197.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30
Oct-76				1078.20	1100.70	1135.50	1194.30	1240.50	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70
Oct-77				1145.10	1168.80	1206.00	1268.40	1317.30	1353.60	1353.60	1353.60	1353.60	1353.60	1353.60	1353.60	1353.60
Oct-78				1208.10	1233.00	1272.30	1338.30	1389.90	1428.00	1428.00	1428.00	1428.00	1428.00	1428.00	1428.00	1428.00
Oct-79				1293.00	1319.70	1361.70	1432.70	1487.40	1528.20	1528.20	1528.20	1528.20	1528.20	1528.20	1528.20	1528.20
Oct-80				1444.20	1474.20	1521.00	1599.90	1661.40	1707.00	1707.00	1707.00	1707.00	1707.00	1707.00	1707.00	1707.00
Oct-81				1650.60	1685.10	1738.50	1828.80	1899.00	1951.20	1951.20	1951.20	1951.20	1951.20	1951.20	1951.20	1951.20
Oct-82				1716.60	1752.60	1808.10	1902.00	1974.90	2029.20	2029.20	2029.20	2029.20	2029.20	2029.20	2029.20	2029.20

Pay Grade O-2E																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jan-84				1785.30	1822.80	1880.40	1978.20	2053.80	2110.50	2110.50	2110.50	2110.50	2110.50	2110.50	2110.50	2110.50
Jan-85				1856.70	1895.70	1955.70	2057.40	2136.00	2194.80	2194.80	2194.80	2194.80	2194.80	2194.80	2194.80	2194.80
Oct-85				1912.50	1952.70	2014.50	2119.20	2200.20	2260.50	2260.50	2260.50	2260.50	2260.50	2260.50	2260.50	2260.50
Jan-87				1969.80	2011.20	2074.80	2182.80	2266.20	2328.30	2328.30	2328.30	2328.30	2328.30	2328.30	2328.30	2328.30
Jan-88				2009.10	2051.40	2116.20	2226.60	2311.50	2374.80	2374.80	2374.80	2374.80	2374.80	2374.80	2374.80	2374.80
Jan-89				2091.60	2135.40	2202.90	2317.80	2406.30	2472.30	2472.30	2472.30	2472.30	2472.30	2472.30	2472.30	2472.30
Jan-90				2166.90	2212.20	2282.10	2401.20	2493.00	2561.40	2561.40	2561.40	2561.40	2561.40	2561.40	2561.40	2561.40
Jan-91				2255.70	2302.80	2375.70	2499.60	2595.30	2666.40	2666.40	2666.40	2666.40	2666.40	2666.40	2666.40	2666.40
Jan-92				2350.50	2399.40	2475.60	2604.60	2704.20	2778.30	2778.30	2778.30	2778.30	2778.30	2778.30	2778.30	2778.30
Jan-93				2437.50	2488.20	2567.10	2700.90	2804.40	2881.20	2881.20	2881.20	2881.20	2881.20	2881.20	2881.20	2881.20
Jan-94				2491.20	2542.80	2623.50	2760.30	2866.20	2944.50	2944.50	2944.50	2944.50	2944.50	2944.50	2944.50	2944.50
Jan-95				2556.00	2608.80	2691.60	2832.00	2940.60	3021.00	3021.00	3021.00	3021.00	3021.00	3021.00	3021.00	3021.00
Jan-96				2617.20	2671.50	2756.10	2900.10	3011.10	3093.60	3093.60	3093.60	3093.60	3093.60	3093.60	3093.60	3093.60
Jan-97				2695.80	2751.60	2838.90	2987.10	3101.40	3186.30	3186.30	3186.30	3186.30	3186.30	3186.30	3186.30	3186.30
Jan-98				2771.40	2828.70	2918.40	3070.80	3188.10	3275.40	3275.40	3275.40	3275.40	3275.40	3275.40	3275.40	3275.40
Jan-99				2871.30	2930.40	3023.40	3181.20	3303.00	3393.30	3393.30	3393.30	3393.30	3393.30	3393.30	3393.30	3393.30
Jan-00				3009.00	3071.10	3168.60	3333.90	3461.40	3556.20	3556.20	3556.20	3556.20	3556.20	3556.20	3556.20	3556.20
Jan-01				3120.30	3184.80	3285.90	3457.20	3589.50	3687.90	3687.90	3687.90	3687.90	3687.90	3687.90	3687.90	3687.90
Jan-02				3276.30	3344.10	3450.30	3630.00	3768.90	3872.40	3872.40	3872.40	3872.40	3872.40	3872.40	3872.40	3872.40
Jan-03				3410.70	3481.20	3591.90	3778.80	3923.40	4031.10	4031.10	4031.10	4031.10	4031.10	4031.10	4031.10	4031.10
Jan-04				3537.00	3609.90	3724.80	3918.60	4068.60	4180.20	4180.20	4180.20	4180.20	4180.20	4180.20	4180.20	4180.20
Jan-05				3660.90	3736.20	3855.30	4055.70	4211.10	4326.60	4326.60	4326.60	4326.60	4326.60	4326.60	4326.60	4326.60
Jan-06				3774.30	3852.00	3974.70	4181.40	4341.60	4460.70	4460.70	4460.70	4460.70	4460.70	4460.70	4460.70	4460.70
Jan-07				3857.40	3936.60	4062.00	4273.50	4437.00	4558.80	4558.80	4558.80	4558.80	4558.80	4558.80	4558.80	4558.80
Jan-08				3992.40	4074.30	4204.20	4423.20	4592.40	4718.40	4718.40	4718.40	4718.40	4718.40	4718.40	4718.40	4718.40

Pay Grade O-2E																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-09				4148.10	4233.30	4368.30	4595.70	4771.50	4902.30	4902.30	4902.30	4902.30	4902.30	4902.30	4902.30	4902.30
Jan-10				4289.10	4377.30	4516.80	4752.00	4933.80	5069.10	5069.10	5069.10	5069.10	5069.10	5069.10	5069.10	5069.10
Jan-11				4349.10	4438.50	4580.10	4818.60	5002.80	5140.20	5140.20	5140.20	5140.20	5140.20	5140.20	5140.20	5140.20
Jan-12				4418.70	4509.60	4653.30	4895.70	5082.90	5222.40	5222.40	5222.40	5222.40	5222.40	5222.40	5222.40	5222.40
Jan-13				4493.70	4586.40	4732.50	4978.80	5169.30	5311.20	5311.20	5311.20	5311.20	5311.20	5311.20	5311.20	5311.20
Jan-14				4538.70	4632.30	4779.90	5028.60	5220.90	5364.30	5364.30	5364.30	5364.30	5364.30	5364.30	5364.30	5364.30
Jan-15				4584.00	4678.50	4827.60	5079.00	5273.10	5418.00	5418.00	5418.00	5418.00	5418.00	5418.00	5418.00	5418.00

Pay Grade O-1E																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jun-58				314.10	335.10	350.10	365.10	380.10	399.90	399.90	399.90	399.90	399.90	399.90	399.90	399.90
Oct-63				375.00	399.90	414.90	429.90	444.90	465.00	465.00	465.00	465.00	465.00	465.00	465.00	465.00
Sep-64				384.30	410.10	425.40	440.70	456.00	476.70	476.70	476.70	476.70	476.70	476.70	476.70	476.70
Sep-65				407.40	434.70	450.90	467.10	483.30	505.20	505.20	505.20	505.20	505.20	505.20	505.20	505.20
Jul-66				420.30	448.50	465.30	482.10	498.90	521.40	521.40	521.40	521.40	521.40	521.40	521.40	521.40
Oct-67				443.70	473.70	491.40	509.10	526.80	550.50	550.50	550.50	550.50	550.50	550.50	550.50	550.50
Jul-68				474.30	506.40	525.30	544.20	563.10	588.60	588.60	588.60	588.60	588.60	588.60	588.60	588.60
Jul-69				534.00	570.30	591.60	612.90	634.20	662.70	662.70	662.70	662.70	662.70	662.70	662.70	662.70
Jan-70				577.20	616.50	639.60	662.40	685.50	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40
Jan-71				622.80	665.10	690.00	714.60	739.80	773.10	773.10	773.10	773.10	773.10	773.10	773.10	773.10
Nov-71				622.80	665.10	690.00	714.60	739.80	773.10	773.10	773.10	773.10	773.10	773.10	773.10	773.10

Pay Grade O-1E																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jan-72				667.80	713.10	739.80	766.20	793.20	828.90	828.90	828.90	828.90	828.90	828.90	828.90	828.90
Oct-72				712.50	760.80	789.30	817.50	846.30	884.40	884.40	884.40	884.40	884.40	884.40	884.40	884.40
Oct-73				756.60	807.60	837.90	867.90	898.50	939.00	939.00	939.00	939.00	939.00	939.00	939.00	939.00
Oct-74				798.30	852.30	884.10	915.90	948.00	990.90	990.90	990.90	990.90	990.90	990.90	990.90	990.90
Oct-75				838.20	894.90	928.20	961.80	995.40	1040.40	1040.40	1040.40	1040.40	1040.40	1040.40	1040.40	1040.40
Oct-76				868.50	927.30	961.80	996.60	1031.40	1078.20	1078.20	1078.20	1078.20	1078.20	1078.20	1078.20	1078.20
Oct-77				922.20	984.90	1021.50	1058.40	1095.30	1145.10	1145.10	1145.10	1145.10	1145.10	1145.10	1145.10	1145.10
Oct-78				972.90	1039.20	1077.60	1116.60	1155.60	1208.10	1208.10	1208.10	1208.10	1208.10	1208.10	1208.10	1208.10
Oct-79				1041.30	1112.10	1153.20	1194.90	1236.90	1293.00	1293.00	1293.00	1293.00	1293.00	1293.00	1293.00	1293.00
Oct-80				1163.10	1242.30	1288.20	1334.70	1381.20	1444.20	1444.20	1444.20	1444.20	1444.20	1444.20	1444.20	1444.20
Oct-81				1329.30	1419.90	1472.40	1525.50	1578.60	1650.60	1650.60	1650.60	1650.60	1650.60	1650.60	1650.60	1650.60
Oct-82				1382.40	1476.60	1531.20	1586.40	1641.60	1716.60	1716.60	1716.60	1716.60	1716.60	1716.60	1716.60	1716.60
Jan-84				1437.60	1535.70	1592.40	1650.00	1707.30	1785.30	1785.30	1785.30	1785.30	1785.30	1785.30	1785.30	1785.30
Jan-85				1495.20	1597.20	1656.00	1716.00	1775.70	1856.70	1856.70	1856.70	1856.70	1856.70	1856.70	1856.70	1856.70
Oct-85				1540.20	1645.20	1705.80	1767.60	1829.10	1912.50	1912.50	1912.50	1912.50	1912.50	1912.50	1912.50	1912.50
Jan-87				1586.40	1694.70	1757.10	1820.70	1884.00	1969.80	1969.80	1969.80	1969.80	1969.80	1969.80	1969.80	1969.80
Jan-88				1618.20	1728.60	1792.20	1857.00	1921.80	2009.10	2009.10	2009.10	2009.10	2009.10	2009.10	2009.10	2009.10
Jan-89				1684.50	1799.40	1865.70	1933.20	2000.70	2091.60	2091.60	2091.60	2091.60	2091.60	2091.60	2091.60	2091.60
Jan-90				1745.10	1864.20	1932.90	2002.80	2072.70	2166.90	2166.90	2166.90	2166.90	2166.90	2166.90	2166.90	2166.90
Jan-91				1816.50	1940.70	2012.10	2085.00	2157.60	2255.70	2255.70	2255.70	2255.70	2255.70	2255.70	2255.70	2255.70
Jan-92				1892.70	2022.30	2096.70	2172.60	2248.20	2350.50	2350.50	2350.50	2350.50	2350.50	2350.50	2350.50	2350.50
Jan-93				1962.60	2097.00	2174.40	2253.00	2331.30	2437.50	2437.50	2437.50	2437.50	2437.50	2437.50	2437.50	2437.50
Jan-94				2005.80	2143.20	2222.10	2302.50	2382.60	2491.20	2491.20	2491.20	2491.20	2491.20	2491.20	2491.20	2491.20
Jan-95				2058.00	2199.00	2280.00	2362.50	2444.40	2556.00	2556.00	2556.00	2556.00	2556.00	2556.00	2556.00	2556.00
Jan-96				2107.50	2251.80	2334.60	2419.20	2503.20	2617.20	2617.20	2617.20	2617.20	2617.20	2617.20	2617.20	2617.20

Pay Grade O-1E																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jan-97				2170.80	2319.30	2404.50	2491.80	2578.20	2695.80	2695.80	2695.80	2695.80	2695.80	2695.80	2695.80	2695.80
Jan-98				2231.70	2384.10	2471.70	2561.70	2650.50	2771.40	2771.40	2771.40	2771.40	2771.40	2771.40	2771.40	2771.40
Jan-99				2312.10	2469.90	2560.80	2653.80	2745.90	2871.30	2871.30	2871.30	2871.30	2871.30	2871.30	2871.30	2871.30
Jan-00				2423.10	2588.40	2683.80	2781.30	2877.60	3009.00	3009.00	3009.00	3009.00	3009.00	3009.00	3009.00	3009.00
Jan-01				2512.80	2684.10	2783.10	2884.20	2984.10	3120.30	3120.30	3120.30	3120.30	3120.30	3120.30	3120.30	3120.30
Jan-02				2638.50	2818.20	2922.30	3028.50	3133.20	3276.30	3276.30	3276.30	3276.30	3276.30	3276.30	3276.30	3276.30
Jan-03				2746.80	2933.70	3042.00	3152.70	3261.60	3410.70	3410.70	3410.70	3410.70	3410.70	3410.70	3410.70	3410.70
Jan-04				2848.50	3042.30	3154.50	3269.40	3382.20	3537.00	3537.00	3537.00	3537.00	3537.00	3537.00	3537.00	3537.00
Jan-05				2948.10	3148.80	3264.90	3383.70	3500.70	3660.90	3660.90	3660.90	3660.90	3660.90	3660.90	3660.90	3660.90
Jan-06				3039.60	3246.30	3366.00	3488.70	3609.30	3774.30	3774.30	3774.30	3774.30	3774.30	3774.30	3774.30	3774.30
Jan-07				3106.50	3317.70	3440.10	3565.50	3688.80	3857.40	3857.40	3857.40	3857.40	3857.40	3857.40	3857.40	3857.40
Jan-08				3215.10	3433.80	3560.40	3690.30	3817.80	3992.40	3992.40	3992.40	3992.40	3992.40	3992.40	3992.40	3992.40
Jan-09				3340.50	3567.60	3699.30	3834.30	3966.60	4148.10	4148.10	4148.10	4148.10	4148.10	4148.10	4148.10	4148.10
Jan-10				3454.20	3688.80	3825.00	3964.80	4101.60	4289.10	4289.10	4289.10	4289.10	4289.10	4289.10	4289.10	4289.10
Jan-11				3502.50	3740.40	3878.70	4020.30	4158.90	4349.10	4349.10	4349.10	4349.10	4349.10	4349.10	4349.10	4349.10
Jan-12				3558.60	3800.10	3940.80	4084.50	4225.50	4418.70	4418.70	4418.70	4418.70	4418.70	4418.70	4418.70	4418.70
Jan-13				3619.20	3864.60	4007.70	4153.80	4297.20	4493.70	4493.70	4493.70	4493.70	4493.70	4493.70	4493.70	4493.70
Jan-14				3655.50	3903.30	4047.90	4195.20	4340.10	4538.70	4538.70	4538.70	4538.70	4538.70	4538.70	4538.70	4538.70
Jan-15				3692.10	3942.30	4088.40	4237.20	4383.60	4584.00	4584.00	4584.00	4584.00	4584.00	4584.00	4584.00	4584.00

Note 1: Under the provisions of Section 161(c) of Title 10, United States Code (10 U.S.C. § 161), the current rate (2009) of basic pay for commissioned officers in pay grades 0–7 through 0–10 may not exceed the rate of pay for level II or $14,750.10 of the Executive Schedule. Basic Pay for O–6 and below is limited to Level V or $11,958.30 of the Executive Schedule.

An officer serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in section 161(c) of title 10, United States Code), basic pay for this grade is $14,750.10, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

Pay Grade W-5																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Feb-92												3455.70	3587.10	3587.10	3846.30	3846.30
Jan-93												3583.80	3719.70	3827.30	3988.50	3988.50
Jan-94												3662.70	3801.60	3911.40	4076.10	4076.10
Jan-95												3757.80	3900.30	4013.10	4182.00	4182.00
Jan-96												3848.10	3993.90	4109.40	4282.50	4282.50
Jan-97												3963.60	4113.60	4232.70	4410.90	4410.90
Jan-98												4074.60	4228.80	4351.20	4534.50	4534.50
Jan-99												4221.30	4380.90	4507.80	4697.70	4697.70
Jan-00												4423.80	4591.20	4724.10	4923.30	4923.30
Jul-00												4475.10	4628.70	4782.90	4937.40	4937.40
Jan-01												4640.70	4800.00	4959.90	5120.10	5120.10
Jan-02												4965.60	5136.00	5307.00	5478.60	5478.60
Jan-03												5169.30	5346.60	5524.50	5703.30	5703.30
Jan-04												5360.70	5544.30	5728.80	5914.20	5914.20
Jan-05												5548.20	5738.40	5929.20	6121.20	6121.20
Jan-06												5720.10	5916.30	6113.10	6311.10	6311.10
Jan-07												5845.80	6046.50	6247.50	6450.00	6450.00
Apr-07												6049.50	6356.40	6585.00	6838.20	7180.20
Jan-08												6261.30	6579.00	6815.40	7077.60	7077.60
Jan-09												6505.50	6835.50	7081.20	7353.60	7353.60
Jan-10												6726.60	7068.00	7322.10	7603.50	7983.90
Jan-11												6820.80	7167.00	7424.70	7710.00	8095.80
Jan-12												6930.00	7281.60	7543.50	7833.30	8225.40
Jan-13												7047.90	7405.50	7671.60	7966.50	8365.20

Pay Grade W-5																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-14												7118.40	7479.60	7748.40	8046.30	8448.90
Jan-15												7189.50	7554.30	7825.80	8126.70	8533.50

Pay Grade W-4																
	Under 2	**Over2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-49	320.10	320.10	320.10	320.10	334.65	349.20	363.75	378.30	392.85	407.40	421.95	421.95	436.50	436.50	451.05	465.60
May-52	332.90	332.90	332.90	332.90	348.04	363.17	378.30	393.43	408.56	423.70	438.83	438.83	453.96	453.96	469.09	484.22
Apr-55	332.90	354.90	354.90	354.90	370.50	386.10	401.70	421.20	452.40	468.00	483.60	483.60	499.20	499.20	514.80	530.40
Jun-58	332.90	376.00	376.00	383.00	399.00	416.00	435.00	465.00	486.00	504.00	516.00	528.00	543.00	543.00	575.00	595.00
Oct-63	332.90	430.00	430.00	440.00	460.00	480.00	500.00	535.00	560.00	580.00	595.00	615.00	635.00	635.00	685.00	685.00
Sep-64	361.20	440.70	440.70	450.90	471.60	492.00	512.40	548.40	573.90	594.60	609.90	630.30	651.00	651.00	702.00	702.00
Sep-65	435.60	467.10	467.10	477.90	499.80	521.40	543.00	581.40	608.40	630.30	646.50	668.10	690.00	690.00	744.00	744.00
Jul-66	449.40	482.10	482.10	493.20	515.70	538.20	560.40	600.00	627.90	650.40	667.20	689.40	712.20	712.20	767.70	767.60
Oct-67	474.60	509.10	509.10	520.80	544.50	568.20	591.90	633.60	663.00	686.70	704.70	728.10	752.10	752.10	810.60	810.60
Jul-68	507.30	544.20	544.20	556.80	582.00	607.50	632.70	677.40	708.60	734.10	753.30	778.20	804.00	804.00	866.40	866.40
Jul-69	571.20	612.90	612.90	627.00	655.20	684.00	712.50	762.90	798.00	826.50	848.10	876.30	905.40	905.40	975.60	975.60
Jan-70	617.40	662.40	662.40	677.70	708.30	739.50	770.10	824.70	862.50	893.40	916.80	947.40	978.60	978.60	1054.50	1054.50
Jan-71	666.30	714.60	714.60	731.10	764.40	798.00	831.00	889.80	930.60	963.90	989.10	1022.10	1056.00	1056.00	1137.90	1137.90
Nov-71	666.30	714.60	714.60	731.10	764.40	798.00	831.00	889.80	930.60	963.90	989.10	1022.10	1056.00	1056.00	1137.90	1137.90
Jan-72	714.30	766.20	766.20	783.90	819.60	855.60	891.00	954.00	997.80	1033.50	1060.50	1095.90	1132.20	1132.20	1219.80	1219.80
Oct-72	762.00	817.50	817.50	836.40	874.50	912.90	950.70	1017.90	1064.70	1102.50	1131.30	1169.10	1207.80	1207.80	1301.40	1301.40

Pay Grade W-4																
	Under 2	**Over2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-73	809.10	867.90	867.90	888.00	928.50	969.30	1009.50	1080.60	1130.40	1170.60	1201.20	1241.10	1282.20	1282.20	1381.80	1381.80
Oct-74	853.80	915.90	915.90	936.90	979.80	1022.70	1065.30	1140.30	1192.80	1235.10	1267.50	1309.50	1353.00	1353.00	1458.00	1458.00
Oct-75	896.40	961.80	961.80	983.70	1028.70	1073.70	1118.70	1197.30	1252.50	1296.90	1330.80	1374.90	1420.80	1420.80	1530.90	1530.90
Oct-76	982.80	996.60	996.60	1019.40	1065.90	1112.70	1159.20	1240.50	1297.80	1343.70	1379.10	1424.70	1472.10	1472.10	1586.40	1586.40
Oct-77	986.40	1058.40	1058.40	1082.70	1131.90	1181.70	1231.20	1317.30	1378.20	1427.10	1464.60	1512.90	1563.30	1563.30	1684.80	1684.80
Oct-78	1040.70	1116.60	1116.60	1142.10	1194.30	1246.80	1299.00	1389.90	1454.10	1505.70	1545.30	1596.00	1649.40	1649.40	1777.50	1777.50
Oct-79	1113.90	1194.90	1194.90	1222.20	1278.00	1334.40	1390.20	1487.40	1556.10	1611.30	1653.90	1707.90	1765.20	1765.20	1902.30	1902.30
Oct-80	1244.10	1334.70	1344.70	1365.30	1427.40	1490.40	1552.80	1661.40	1738.20	1799.10	1847.60	1907.70	1971.60	1971.60	2124.90	2124.90
Oct-81	1422.00	1524.50	1525.50	1560.60	1631.40	1703.40	1774.80	1899.00	1986.90	2057.10	2111.70	2180.40	2253.60	2253.60	2428.80	2428.80
Oct-82	1479.00	1586.40	1586.40	1623.00	1696.80	1771.50	1845.90	1974.90	2066.40	2139.30	2196.30	2267.70	2343.60	2343.60	2526.00	2526.00
Jan-84	1538.10	1650.00	1650.00	1687.80	1764.60	1842.30	1919.70	2053.80	2149.20	2224.80	2284.20	2358.30	2437.20	2437.20	2627.10	2627.10
Jan-85	1599.60	1716.00	1716.00	1755.30	1835.10	1916.10	1996.50	2136.00	2235.30	2313.90	2375.70	2452.50	2534.70	2534.70	2732.10	2732.10
Oct-85	1647.60	1767.60	1767.60	1808.10	1890.30	1973.70	2056.50	2200.20	2302.50	2383.20	2447.10	2526.00	2610.60	2610.60	2814.00	2814.00
Jan-87	1697.10	1820.70	1820.70	1862.40	1947.00	2032.80	2118.30	2266.20	2371.50	2454.60	2520.60	2601.90	2688.90	2688.90	2898.30	2898.30
Jan-88	1731.00	1857.00	1857.00	1899.60	1986.00	2073.60	2160.60	2311.50	2418.90	2503.80	2571.00	2653.80	2742.60	2742.60	2956.20	2956.20
Jan-89	1802.10	1933.20	1933.20	1977.60	2067.30	2158.50	2249.10	2406.30	2518.20	2606.40	2676.30	2762.70	2855.10	2855.10	3077.40	3077.40
Jan-90	1866.90	2002.80	2002.80	2048.70	2141.70	2236.20	2330.10	2493.00	2608.80	2700.30	2772.60	2862.30	2958.00	2958.00	3188.10	3188.10
Jan-91	1943.40	2085.00	2085.00	2132.70	2229.60	2328.00	2425.50	2595.30	2715.90	2811.00	2886.30	2979.60	3079.20	3079.20	3318.90	3318.90
Jan-92	2025.00	2172.60	2172.60	2222.40	2323.20	2425.80	2527.50	2704.20	2829.90	2929.20	3007.50	3104.70	3208.50	3208.50	3458.40	3458.40
Jan-93	2100.00	2253.00	2253.00	2304.60	2409.30	2515.50	2621.10	2804.40	2934.60	3037.50	3118.80	3219.60	3327.30	3430.90	3586.50	3586.50
Jan-94	2146.20	2302.50	2302.50	2355.30	2462.40	2570.70	2678.70	2866.20	2999.10	3104.40	3187.50	3290.40	3400.50	3506.40	3665.40	3665.40
Jan-95	2202.00	2362.50	2362.50	2416.50	2526.30	2637.60	2748.30	2940.60	3077.10	3185.10	3270.30	3375.90	3489.00	3597.60	3760.80	3760.80
Jan-96	2254.80	2419.20	2419.20	2474.40	2586.90	2700.90	2814.30	3011.10	3150.90	3261.60	3348.90	3456.90	3572.70	3684.00	3851.10	3851.10
Jan-97	2322.30	2491.80	2491.80	2548.50	2664.60	2781.90	2898.60	3101.40	3245.40	3359.40	3449.40	3560.70	3679.80	3794.40	3966.60	3966.60
Jan-98	2387.40	2561.70	2561.70	2619.90	2739.30	2859.90	2979.90	3188.10	3336.30	3453.60	3546.00	3660.30	3782.70	3900.60	4077.60	4077.60

Pay Grade W-4																
	Under 2	**Over2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-99	2473.20	2653.80	2653.80	2714.10	2838.00	2962.80	3087.30	3303.00	3456.30	3577.80	3673.80	3792.00	3918.90	4041.00	4224.30	4224.30
Jan-00	2592.00	2781.30	2781.30	2844.30	2974.20	3105.00	3235.50	3461.40	3622.20	3749.40	3850.20	3974.10	4107.00	4235.10	4427.10	4427.10
Jul-00	2592.00	2788.50	2868.60	2947.50	3083.40	3217.20	3352.80	3485.10	3622.20	3753.60	3888.00	4019.40	4155.60	4289.70	4427.10	4427.10
Jan-01	2688.00	2891.70	2974.80	3056.70	3197.40	3336.30	3477.00	3614.10	3756.30	3892.50	4032.00	4168.20	4309.50	4448.40	4590.90	4590.90
Jan-02	2889.60	3108.60	3198.00	3285.90	3437.10	3586.50	3737.70	3885.30	4038.00	4184.40	4334.40	4480.80	4632.60	4782.00	4935.30	4935.30
Jan-03	3008.10	3236.10	3329.10	3420.60	3578.10	3733.50	3891.00	4044.60	4203.60	4356.00	4512.00	4664.40	4822.50	4978.20	5137.50	5137.50
Jan-04	3119.40	3355.80	3452.40	3547.20	3710.40	3871.50	4035.00	4194.30	4359.00	4617.30	4782.60	4944.30	5112.00	5277.00	5445.90	5445.90
Jan-05	3228.60	3473.40	3573.30	3671.40	3840.30	4007.10	4176.30	4341.00	4511.70	4779.00	4950.00	5117.40	5290.80	5461.80	5636.40	5636.40
Jan-06	3328.80	3581.10	3684.00	3785.10	3959.40	4131.30	4305.90	4475.70	4651.50	4927.20	5103.60	5276.10	5454.90	5631.00	5811.00	5811.00
Jan-07	3402.00	3660.00	3765.00	3868.50	4046.40	4222.20	4400.70	4574.10	4753.80	5035.50	5215.80	5392.20	5574.90	5754.90	5938.80	5938.80
Jan-08	3521.10	3788.10	3896.70	4003.80	4188.00	4370.10	4554.60	4832.70	5076.00	5307.60	5496.90	5681.70	5953.50	6176.40	6431.10	6559.50
Jan-09	3658.50	3935.70	4048.80	4159.80	4351.20	4540.50	4732.20	5021.10	5274.00	5514.60	5711.40	5903.40	6185.70	6417.30	6681.90	6815.40
Jan-10	3783.00	4069.50	4186.50	4301.10	4499.10	4695.00	4893.00	5191.80	5453.40	5702.10	5905.50	6104.10	6396.00	6635.40	6909.00	7047.00
Jan-11	3836.10	4126.50	4245.00	4361.40	4562.10	4760.70	4961.40	5264.40	5529.60	5781.90	5988.30	6189.60	6485.40	6728.40	7005.60	7145.70
Jan-12	3897.60	4192.50	4312.80	4431.30	4635.00	4836.90	5040.90	5348.70	5618.10	5874.30	6084.00	6288.60	6589.20	6836.10	7117.80	7260.00
Jan-13	3963.90	4263.90	4386.00	4506.60	4713.90	4919.10	5126.70	5439.60	5713.50	5974.20	6187.50	6395.40	6701.10	6952.20	7238.70	7383.30
Jan-14	4003.50	4306.50	4429.80	4551.60	4761.00	4968.30	5178.00	5493.90	5770.50	6033.90	6249.30	6459.30	6768.00	7021.80	7311.00	7457.10
Jan-15	4043.40	4349.70	4474.20	4597.20	4808.70	5018.10	5229.90	5548.80	5828.10	6094.20	6311.70	6523.80	6835.80	7092.00	7384.20	7531.80

Pay Grade W-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-49	291.00	291.00	291.00	291.00	298.28	305.55	312.83	320.10	327.38	334.65	349.20	349.20	363.75	363.75	378.30	392.85
May-52	302.64	302.64	302.64	302.64	310.21	317.77	325.34	332.90	340.48	348.04	363.17	363.17	378.30	378.30	393.43	408.56
Apr-55	302.64	323.70	323.70	323.70	331.50	339.30	347.10	358.80	374.40	382.20	405.60	405.60	428.00	428.00	443.60	459.20
Jun-58	302.64	343.00	343.00	348.00	353.00	380.00	398.00	412.00	427.00	441.00	458.00	470.00	487.00	487.00	506.00	506.00
Oct-63	302.64	395.00	395.00	400.00	405.00	435.00	460.00	475.00	490.00	505.00	520.00	540.00	560.00	560.00	580.00	580.00
Sep-64	328.50	405.00	405.00	410.10	415.20	445.80	471.60	486.90	502.20	517.50	533.10	533.50	573.90	573.90	594.60	594.60
Sep-65	396.00	429.30	429.30	434.70	440.10	472.50	499.80	516.00	532.20	548.40	565.20	586.80	608.40	608.40	630.30	630.30
Jul-66	408.60	443.10	443.10	448.50	454.20	487.50	515.70	532.50	549.30	565.80	583.20	605.70	627.90	627.90	650.40	650.40
Oct-67	431.40	468.00	468.00	473.70	479.70	514.80	554.50	562.20	580.20	597.60	615.90	639.60	663.00	663.00	686.70	686.70
Jul-68	461.10	500.40	500.40	506.40	512.70	550.20	582.00	600.90	620.10	638.70	658.50	683.70	708.60	708.60	734.10	734.10
Jul-69	519.30	563.40	563.40	570.30	577.20	619.50	655.20	676.50	698.10	719.10	741.60	769.80	798.00	798.00	826.50	826.50
Jan-70	561.30	609.00	609.00	616.50	624.00	669.60	708.30	731.40	754.50	777.30	801.60	832.20	862.50	862.50	893.40	893.40
Jan-71	605.70	657.00	657.00	665.10	673.20	722.40	764.40	789.80	814.20	838.80	864.90	897.90	930.60	930.60	963.90	963.90
Nov-71	605.70	657.00	657.00	665.10	673.20	722.40	764.40	789.80	814.20	838.80	864.90	897.90	930.60	930.60	963.90	963.90
Jan-72	649.50	704.40	704.40	713.10	721.80	774.60	819.60	846.30	873.00	899.40	927.30	962.70	997.80	997.80	1033.50	1033.50
Oct-72	693.00	751.50	751.50	760.80	770.10	826.50	874.50	903.00	931.50	959.70	989.40	1027.20	1064.70	1064.70	1102.50	1102.50
Oct-73	735.90	798.00	798.00	807.60	817.50	877.50	928.50	958.80	989.10	1018.80	1050.30	1090.50	1130.40	1130.40	1170.60	1170.60
Oct-74	776.40	842.10	842.10	852.30	862.50	925.80	979.80	1011.60	1043.70	1074.90	1108.20	1150.80	1192.80	1192.80	1235.10	1235.10
Oct-75	815.10	884.10	884.10	894.90	905.70	972.00	1028.70	1062.30	1095.90	1128.60	1163.70	1208.40	1252.50	1252.50	1296.90	1296.90
Oct-76	844.50	916.20	916.20	927.30	938.40	1007.10	1065.90	1100.70	1135.50	1169.40	1205.70	1252.20	1297.80	1297.80	1343.70	1343.70
Oct-77	897.00	927.90	972.90	984.90	996.60	1059.50	1131.90	1168.80	1206.00	1242.00	1280.40	1329.90	1378.20	1378.20	1427.10	1427.10
Oct-78	946.20	1026.30	1026.30	1039.20	1051.50	1128.30	1194.30	1233.00	1272.30	1310.40	1350.90	1403.10	1454.10	1454.10	1505.70	1505.70
Oct-79	1012.50	1098.30	1098.30	1112.10	1125.30	1207.50	1278.00	1319.70	1361.70	1402.50	1445.70	1501.50	1556.10	1556.10	1611.30	1611.30
Oct-80	1131.00	1226.70	1226.70	1242.30	1257.00	1348.80	1427.40	1474.20	1521.00	1566.60	1614.90	1677.30	1738.20	1738.20	1799.70	1799.70
Oct-81	1292.70	1402.20	1402.20	1419.90	1436.70	1541.70	1631.40	1685.10	1738.50	1790.70	1845.90	1917.30	1986.90	1986.90	2057.10	2057.10

Pay Grade W-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-82	1344.30	1458.30	1458.30	1476.60	1494.30	1603.50	1696.80	1752.60	1808.10	1862.40	1919.70	1994.10	2066.40	2066.40	2139.30	2139.30
Jan-84	1398.00	1516.50	1516.50	1535.70	1554.00	1667.70	1764.60	1822.80	1880.40	1936.80	1996.50	2073.90	2149.20	2149.20	2224.80	2224.80
Jan-85	1453.80	1577.10	1577.10	1597.20	1616.10	1734.30	1835.10	1895.70	1955.70	2014.20	2076.30	2157.00	2235.30	2235.30	2313.90	2313.90
Oct-85	1497.30	1624.50	1624.50	1645.20	1664.70	1786.20	1890.30	1952.70	2014.50	2074.50	2138.70	2221.80	2302.50	2302.50	2383.20	2383.20
Jan-87	1542.30	1673.10	1673.10	1694.70	1714.50	1839.90	1947.00	2011.20	2074.80	2136.60	2202.90	2288.40	2371.50	2371.50	2454.60	2454.60
Jan-88	1573.20	1706.70	1706.70	1728.60	1748.70	1876.80	1986.00	2051.40	2116.20	2179.20	2247.00	2334.30	2418.90	2418.90	2503.80	2503.80
Jan-89	1637.70	1776.60	1776.60	1799.40	1820.40	1953.60	2067.30	2135.40	2202.90	2268.60	2339.10	2430.00	2518.20	2518.20	2606.40	2606.40
Jan-90	1696.80	1840.50	1840.50	1864.20	1885.80	2023.80	2141.70	2212.20	2282.10	2350.20	2423.40	2517.60	2608.80	2608.80	2700.30	2700.30
Jan-91	1766.40	1916.10	1916.10	1940.70	1963.20	2106.90	2229.60	2302.80	2375.70	2446.50	2522.70	2620.80	2715.90	2715.90	2811.00	2811.00
Jan-92	1840.50	1996.50	1996.50	2022.30	2045.70	2195.40	2323.20	2399.40	2475.60	2549.40	2628.60	2730.90	2829.90	2829.90	2929.20	2929.20
Jan-93	1908.60	2070.30	2070.30	2097.00	2121.30	2276.70	2409.30	2488.20	2567.10	2643.60	2725.80	2832.00	2934.60	2934.60	3037.50	3037.50
Jan-94	1950.60	2115.90	2115.90	2143.20	2168.10	2326.80	2462.40	2542.80	2623.50	2701.80	2785.80	2894.40	2999.10	2999.10	3104.40	3104.40
Jan-95	2001.30	2170.80	2170.80	2199.00	2224.50	2387.40	2526.30	2608.80	2691.60	2772.00	2858.10	2969.70	3077.10	3077.10	3185.10	3185.10
Jan-96	2049.30	2223.00	2223.00	2251.80	2277.90	2444.70	2586.90	2671.50	2756.10	2838.60	2926.80	3041.10	3150.90	3150.90	3261.60	3261.60
Jan-97	2110.80	2289.60	2289.60	2319.30	2346.30	2517.90	2664.60	2751.60	2838.90	2923.80	3014.70	3132.30	3245.40	3245.40	3359.40	3359.40
Jan-98	2196.90	2353.80	2353.80	2384.10	2412.00	2588.40	2739.30	2828.70	2918.40	3005.70	3099.00	3219.90	3336.30	3336.30	3453.60	3453.60
Jan-99	2247.90	2438.40	2438.40	2469.90	2498.70	2681.70	2838.00	2930.40	3023.40	3114.00	3210.60	3335.70	3456.30	3456.30	3577.80	3577.80
Jan-00	2355.90	2555.40	2555.40	2588.40	2618.70	2810.40	2974.20	3071.10	3168.60	3263.40	3364.80	3495.90	3622.20	3622.20	3749.40	3749.40
Jul-00	2355.90	2555.40	2555.40	2588.40	2694.30	2814.90	2974.20	3071.10	3177.00	3298.20	3418.50	3539.10	3659.40	3780.00	3900.90	3900.90
Jan-01	2443.20	2649.90	2649.90	2684.10	2793.90	2919.00	3084.30	3184.80	3294.60	3420.30	3545.10	3669.90	3794.70	3919.80	4045.20	4045.20
Jan-02	2638.80	2862.00	2862.00	2898.90	3017.40	3152.40	3330.90	3439.50	3558.30	3693.90	3828.60	3963.60	4098.30	4233.30	4368.90	4368.90
Jan-03	2747.10	2862.00	2979.30	3017.70	3141.00	3281.70	3467.40	3580.50	3771.90	3915.60	4058.40	4201.50	4266.30	4407.00	4548.00	4548.00
Jan-04	2848.80	2967.90	3089.40	3129.30	3257.10	3403.20	3595.80	3786.30	3988.80	4140.60	4291.80	4356.90	4424.10	4570.20	4716.30	4716.30
Jan-05	2948.40	3071.70	3197.40	3238.80	3371.10	3522.30	3721.80	3918.90	4128.30	4285.50	4442.10	4509.30	4578.90	4730.10	4881.30	4881.30
Jan-06	3039.90	3166.80	3296.40	3339.30	3475.50	3631.50	3837.30	4040.40	4256.40	4418.40	4579.80	4649.10	4720.80	4876.80	5032.50	5032.50

Pay Grade W-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-07	3106.80	3236.40	3369.00	3412.80	3552.00	3711.30	3921.60	4129.20	4350.00	4515.60	4680.60	4751.40	4824.60	4984.20	5143.20	5143.20
Apr-07	3106.80	3236.40	3369.00	3412.80	3552.00	3825.90	4110.90	4245.30	4400.40	4560.30	4847.70	5042.40	5158.50	5282.10	5450.10	5450.10
Jan-08	3215.40	3349.80	3486.90	3532.20	3676.20	3959.70	4254.90	4393.80	4554.30	4719.90	5017.50	5218.80	5339.10	5466.90	5640.90	5640.90
Jan-09	3340.80	3480.30	3622.80	3669.90	3819.60	4114.20	4420.80	4565.10	4731.90	4904.10	5213.10	5422.20	5547.30	5680.20	5860.80	5860.80
Jan-10	3454.50	3598.50	3746.10	3794.70	3949.50	4254.00	4571.10	4720.20	4892.70	5070.90	5390.40	5606.70	5736.00	5873.40	6060.00	6060.00
Jan-11	3502.80	3648.90	3798.60	3847.80	4004.70	4313.70	4635.00	4786.20	4961.10	5142.00	5466.00	5685.30	5816.40	5955.60	6144.90	6144.90
Jan-12	3558.90	3707.40	3859.50	3909.30	4068.90	4382.70	4709.10	4862.70	5040.60	5224.20	5553.60	5776.20	5909.40	6051.00	6243.30	6243.30
Jan-13	3619.50	3770.40	3925.20	3975.90	4138.20	4457.10	4789.20	4945.50	5126.40	5313.00	5648.10	5874.30	6009.90	6153.90	6349.50	6349.50
Jan-14	3655.80	3808.20	3964.50	4015.80	4179.60	4501.80	4837.20	4995.00	5177.70	5366.10	5704.50	5933.10	6069.90	6215.40	6413.10	6413.10
Jan-15	3692.40	3846.30	4004.10	4056.00	4221.30	4546.80	4885.50	5045.10	5229.60	5419.80	5761.50	5992.50	6130.50	6277.50	6477.30	6477.30

Pay Grade W-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-49	254.63	254.63	254.63	254.63	254.63	261.90	269.18	276.45	283.73	291.00	305.55	305.55	320.10	320.10	334.65	349.20
May-52	264.82	264.82	264.82	264.82	264.82	272.38	279.95	287.51	295.08	302.64	317.77	317.77	332.90	332.90	348.04	363.17
Apr-55	264.82	280.80	280.80	280.80	288.60	304.20	319.80	335.40	350.00	357.80	373.40	373.40	389.00	389.00	404.60	420.20
Jun-58	264.82	298.00	298.00	307.00	328.00	342.00	355.00	369.00	381.00	393.00	406.00	417.00	440.00	440.00	440.00	440.00
Oct-63	264.82	345.00	345.00	355.00	375.00	395.00	410.00	425.00	440.00	455.00	470.00	485.00	505.00	505.00	505.00	505.00
Sep-64	287.40	353.70	353.70	363.90	384.30	405.00	420.30	435.60	450.90	466.50	481.80	497.10	517.50	517.50	517.50	517.50
Sep-65	346.50	375.00	375.00	385.80	407.40	429.30	445.50	461.70	477.90	494.40	510.60	526.80	548.40	548.40	548.40	548.40
Jul-66	357.60	387.00	387.00	398.10	420.30	443.10	459.90	476.40	493.20	510.30	526.80	543.60	565.80	565.80	565.80	565.80

Pay Grade W-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-67	377.70	408.60	408.60	420.30	443.70	468.00	485.70	503.10	520.80	538.80	556.20	573.90	597.60	597.60	597.60	597.60
Jul-68	403.80	436.80	436.80	449.40	474.30	500.40	519.30	537.90	556.80	576.00	594.60	613.50	638.70	638.70	638.70	638.70
Jul-69	454.80	491.70	491.70	506.10	534.00	563.40	584.70	605.70	627.00	648.60	669.60	690.90	719.10	719.10	719.10	719.10
Jan-70	491.70	531.60	531.60	547.20	577.20	609.00	632.10	654.90	677.70	701.10	723.90	747.00	777.30	777.30	777.30	777.30
Jan-71	530.40	573.60	573.60	590.40	622.80	657.00	681.90	706.50	731.10	756.60	781.20	806.10	838.80	838.80	838.80	838.80
Nov-71	530.40	573.60	573.60	590.40	622.80	657.00	681.90	706.50	731.10	756.60	781.20	806.10	838.80	838.80	838.80	838.80
Jan-72	568.50	615.00	615.00	633.00	667.80	704.40	731.10	757.50	783.90	811.20	837.60	864.30	899.40	899.40	899.40	899.40
Oct-72	606.60	656.10	656.10	675.30	712.50	751.50	780.00	808.20	836.40	865.50	893.70	922.20	959.70	959.70	959.70	959.70
Oct-73	644.10	696.60	696.60	717.00	756.60	798.00	828.00	858.00	888.00	918.90	948.90	979.20	1018.80	1018.80	1018.80	1018.80
Oct-74	679.80	735.00	735.00	756.60	798.30	842.10	873.60	905.40	936.90	969.60	1001.40	1033.20	1074.90	1074.90	1074.90	1074.90
Oct-75	713.70	771.90	771.90	794.40	838.20	884.10	917.40	950.70	983.70	1018.20	1051.50	1084.80	1128.60	1128.60	1128.60	1128.60
Oct-76	739.50	799.80	799.80	823.20	868.50	916.20	950.70	985.20	1019.40	1055.10	1089.60	1124.10	1169.40	1169.40	1169.40	1169.40
Oct-77	785.40	849.30	849.30	874.20	922.20	972.90	1009.50	1046.40	1082.70	1120.50	1157.10	1193.70	1242.00	1242.00	1242.00	1242.00
Oct-78	828.60	896.10	896.10	922.20	972.90	1026.30	1065.00	1104.00	1142.10	1182.00	1220.70	1259.40	1310.40	1310.40	1310.40	1310.40
Oct-79	886.80	959.10	959.10	987.00	1041.30	1098.30	1139.70	1181.40	1222.20	1265.10	1306.50	1347.90	1402.50	1402.50	1402.50	1402.50
Oct-80	990.60	1071.30	1071.30	1102.50	1163.10	1226.70	1272.90	1319.70	1365.30	1413.00	1459.50	1505.70	1566.60	1566.60	1566.60	1566.60
Oct-81	1132.20	1224.60	1224.60	1260.30	1329.30	1402.20	1455.00	1508.40	1560.60	1615.20	1668.30	1721.10	1790.70	1790.70	1790.70	1790.70
Oct-82	1177.50	1273.50	1273.50	1310.70	1382.40	1458.30	1513.20	1568.70	1623.00	1679.70	1734.90	1789.80	1862.40	1862.40	1862.40	1862.40
Jan-84	1224.60	1324.50	1324.50	1363.20	1437.60	1516.50	1573.80	1631.40	1687.80	1746.90	1804.20	1861.50	1936.80	1936.80	1936.80	1936.80
Jan-85	1273.50	1377.60	1377.60	1417.80	1495.20	1577.10	1636.80	1696.80	1755.30	1816.80	1876.50	1935.90	2014.20	2014.20	2014.20	2014.20
Oct-85	1311.60	1419.00	1419.00	1460.40	1540.20	1624.50	1686.00	1747.80	1808.10	1871.40	1932.90	1994.10	2074.50	2074.50	2074.50	2074.50
Jan-87	1350.90	1461.60	1461.60	1504.20	1586.40	1673.10	1736.70	1800.30	1862.40	1927.50	1990.80	2053.80	2136.60	2136.60	2136.60	2136.60
Jan-88	1377.90	1490.70	1490.70	1534.20	1618.20	1706.70	1771.50	1836.30	1899.60	1966.20	2030.70	2094.90	2179.20	2179.20	2179.20	2179.20
Jan-89	1434.30	1551.90	1551.90	1597.20	1684.50	1776.60	1844.10	1911.60	1977.60	2046.90	2114.10	2180.70	2268.60	2268.60	2268.60	2268.60
Jan-90	1485.90	1607.70	1607.70	1654.80	1745.10	1840.50	1910.40	1980.30	2048.70	2120.70	2190.30	2259.30	2350.20	2350.20	2350.20	2350.20

Pay Grade W-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-91	1546.80	1673.70	1673.70	1722.60	1816.50	1916.10	1988.70	2061.60	2132.70	2207.70	2280.00	2352.00	2446.50	2446.50	2446.50	2446.50
Jan-92	1611.90	1743.90	1743.90	1794.90	1892.70	1996.50	2072.10	2148.30	2222.40	2300.40	2375.70	2450.70	2549.40	2549.40	2549.40	2549.40
Jan-93	1671.60	1808.40	1808.40	1861.20	1962.60	2070.30	2148.90	2227.80	2304.60	2385.60	2463.60	2541.30	2643.60	2643.60	2643.60	2643.60
Jan-94	1708.50	1848.30	1848.30	1902.00	2005.80	2115.90	2196.30	2276.70	2355.30	2438.10	2517.90	2597.10	2701.80	2701.80	2701.80	2701.80
Jan-95	1752.90	1896.30	1896.30	1951.50	2058.00	2170.80	2253.30	2335.80	2416.50	2501.40	2583.30	2664.60	2772.00	2772.00	2772.00	2772.00
Jan-96	1794.90	1941.90	1941.90	1998.30	2107.50	2223.00	2307.30	2391.90	2474.40	2561.40	2645.40	2728.50	2838.60	2838.60	2838.60	2838.60
Jan-97	1848.60	2000.10	2000.10	2058.30	2170.80	2289.60	2376.60	2463.60	2548.50	2638.20	2724.90	2810.40	2923.80	2923.80	2923.80	2923.80
Jan-98	1900.50	2056.20	2056.20	2115.90	2231.70	2353.80	2443.20	2532.60	2619.90	2712.00	2801.10	2889.00	3005.70	3005.70	3005.70	3005.70
Jan-99	1968.90	2130.30	2130.30	2192.10	2312.10	2438.40	2531.10	2623.80	2714.10	2809.50	2901.90	2993.10	3114.00	3114.00	3114.00	3114.00
Jan-00	2063.40	2232.60	2232.60	2297.40	2423.10	2555.40	2652.60	2749.80	2844.30	2944.50	3041.10	3136.80	3263.40	3263.40	3263.40	3263.40
Jul-00	2063.40	2232.60	2232.60	2305.80	2423.10	2555.40	2652.60	2749.80	2844.30	2949.00	3056.40	3163.80	3270.90	3378.30	3378.30	3378.30
Jan-01	2139.60	2315.10	2315.10	2391.00	2512.80	2649.90	2750.70	2851.50	2949.60	3058.20	3169.50	3280.80	3391.80	3503.40	3503.40	3503.40
Jan-02	2321.40	2454.00	2569.80	2654.10	2726.40	2875.20	2984.40	3093.90	3200.40	3318.00	3438.90	3559.80	3680.10	3801.30	3801.30	3801.30
Jan-03	2416.50	2554.50	2675.10	2763.00	2838.30	2993.10	3148.50	3264.00	3376.50	3453.90	3579.90	3705.90	3831.00	3957.30	3957.30	3957.30
Jan-04	2505.90	2649.00	2774.10	2865.30	2943.30	3157.80	3321.60	3443.40	3562.20	3643.80	3712.50	3843.00	3972.60	4103.70	4103.70	4103.70
Jan-05	2593.50	2741.70	2871.30	2965.50	3046.20	3268.20	3438.00	3564.00	3687.00	3771.30	3842.40	3977.40	4111.50	4247.40	4247.40	4247.40
Jan-06	2673.90	2826.60	2960.40	3057.30	3140.70	3369.60	3544.50	3674.40	3801.30	3888.30	3961.50	4100.70	4239.00	4379.10	4379.10	4379.10
Jan-07	2732.70	2888.70	3025.50	3124.50	3209.70	3443.70	3622.50	3755.10	3885.00	3973.80	4048.80	4191.00	4332.30	4475.40	4475.40	4475.40
Apr-07	2749.20	3009.30	3089.40	3144.60	3322.80	3600.00	3737.10	3872.40	4037.70	4166.70	4284.00	4423.80	4515.90	4589.40	4589.40	4589.40
Jan-08	2845.50	3114.60	3197.40	3254.70	3439.20	3726.00	3867.90	4008.00	4179.00	4312.50	4434.00	4578.60	4674.00	4749.90	4749.90	4749.90
Jan-09	2956.50	3236.10	3322.20	3381.60	3573.30	3871.20	4018.80	4164.30	4341.90	4480.80	4606.80	4757.10	4856.40	4935.00	4935.00	4935.00
Jan-10	3057.00	3346.20	3435.30	3496.50	3694.80	4002.90	4155.30	4305.90	4489.50	4633.20	4763.40	4918.80	5021.40	5102.70	5102.70	5102.70
Jan-11	3099.90	3393.00	3483.30	3545.40	3746.40	4059.00	4213.50	4366.20	4552.50	4698.00	4830.00	4987.80	5091.60	5174.10	5174.10	5174.10
Jan-12	3149.40	3447.30	3539.10	3602.10	3806.40	4123.80	4281.00	4436.10	4625.40	4773.30	4907.40	5067.60	5173.20	5256.90	5256.90	5256.90

Pay Grade W-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-13	3202.80	3505.80	3599.40	3663.30	3871.20	4194.00	4353.90	4511.40	4704.00	4854.30	4990.80	5153.70	5261.10	5346.30	5346.30	5346.30
Jan-14	3234.90	3540.90	3635.40	3699.90	3909.90	4236.00	4397.40	4556.40	4751.10	4902.90	5040.60	5205.30	5313.60	5399.70	5399.70	5399.70
Jan-15	3267.30	3576.30	3671.70	3736.80	3948.90	4278.30	4441.50	4602.00	4798.50	4951.80	5091.00	5257.50	5366.70	5453.70	5453.70	5453.70

Pay Grade W-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-49	210.98	210.98	210.98	210.98	218.25	225.53	232.80	240.08	247.35	254.63	269.18	269.18	283.73	283.73	298.28	298.28
May-52	219.42	219.42	219.42	219.42	226.98	234.55	242.11	249.68	257.24	264.82	279.95	279.95	295.08	295.08	310.21	310.21
Apr-55	219.42	251.20	251.20	251.20	266.80	286.30	294.10	305.80	313.60	321.40	337.00	337.00	352.60	352.60	368.20	368.20
Jun-58	219.42	266.00	266.00	285.00	299.00	313.00	334.00	345.00	354.00	364.00	375.00	390.00	390.00	390.00	390.00	390.00
Oct-63	219.42	305.00	305.00	330.00	345.00	360.00	375.00	390.00	405.00	420.00	435.00	450.00	450.00	450.00	450.00	450.00
Sep-64	238.20	312.60	312.60	338.40	353.70	369.00	384.30	399.90	415.20	430.50	445.80	461.40	461.40	461.40	461.40	461.40
Sep-65	288.90	331.50	331.50	358.80	375.00	391.20	407.40	423.90	440.10	456.30	472.50	489.00	489.00	489.00	489.00	489.00
Jul-66	298.20	342.00	342.00	370.20	387.00	403.80	420.30	437.40	454.20	471.00	487.50	504.60	504.60	504.60	504.60	504.60
Oct-67	315.00	361.20	361.20	390.90	408.60	426.30	443.70	462.00	479.70	497.40	514.80	532.80	532.80	532.80	532.80	532.80
Jul-68	336.60	386.10	386.10	417.90	436.80	455.70	474.30	493.80	512.70	531.60	550.20	569.70	569.70	569.70	569.70	569.70
Jul-69	378.90	434.70	434.70	470.70	491.70	513.00	534.00	555.90	577.20	598.50	619.50	641.40	641.40	641.40	641.40	641.40
Jan-70	409.50	469.80	469.80	508.80	531.60	554.70	577.20	600.90	624.00	647.10	669.60	693.30	693.30	693.30	693.30	693.30
Jan-71	441.90	507.00	507.00	549.00	573.60	598.50	622.80	648.30	673.20	698.10	722.40	748.20	748.20	748.20	748.20	748.20
Nov-71	441.90	507.00	507.00	549.00	573.60	598.50	622.80	648.30	673.20	698.10	722.40	748.20	748.20	748.20	748.20	748.20
Jan-72	473.70	543.60	543.60	588.60	615.00	641.70	667.80	695.10	721.80	748.50	774.60	802.20	802.20	802.20	802.20	802.20

Pay Grade W-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-72	505.50	579.90	579.90	627.90	656.10	684.60	712.50	741.60	770.10	798.60	826.50	855.90	855.90	855.90	855.90	855.90
Oct-73	536.70	615.60	615.60	666.60	696.60	726.90	756.60	787.50	817.50	847.80	877.50	908.70	908.70	908.70	908.70	908.70
Oct-74	566.40	649.50	649.50	703.50	735.00	767.10	798.30	831.00	862.50	894.60	925.80	958.80	958.80	958.80	958.80	958.80
Oct-75	594.60	681.90	681.90	738.60	771.90	805.50	838.20	872.70	905.70	939.30	972.00	1006.80	1006.80	1006.80	1006.80	1006.80
Oct-76	616.20	706.50	706.50	765.30	799.80	834.60	868.50	904.20	938.40	973.20	1007.10	1043.10	1043.10	1043.10	1043.10	1043.10
Oct-77	654.30	750.30	750.30	812.70	849.30	886.20	922.20	960.30	996.60	1033.50	1069.50	1107.90	1107.90	1107.90	1107.90	1107.90
Oct-78	690.30	791.70	791.70	857.40	896.10	934.80	972.90	1013.10	1051.50	1090.20	1128.30	1168.80	1168.80	1168.80	1168.80	1168.80
Oct-79	738.90	847.20	847.20	917.70	959.10	1000.50	1041.30	1084.20	1125.30	1166.70	1207.50	1250.70	1250.70	1250.70	1250.70	1250.70
Oct-80	825.30	946.20	946.20	1025.10	1071.30	1117.50	1163.10	1211.10	1257.00	1303.20	1348.80	1397.10	1397.10	1397.10	1397.10	1397.10
Oct-81	943.20	1081.50	1081.50	1171.80	1224.60	1277.40	1329.30	1384.20	1436.70	1489.50	1541.70	1596.90	1596.90	1596.90	1596.90	1596.90
Oct-82	981.00	1224.70	1124.70	1218.60	1273.50	1328.40	1382.40	1439.70	1494.30	1549.20	1603.50	1660.80	1660.80	1660.80	1660.80	1660.80
Jan-84	1020.30	1169.70	1169.70	1267.20	1324.50	1381.50	1437.60	1497.30	1554.00	1611.30	1667.70	1727.10	1727.10	1727.10	1727.10	1727.10
Jan-85	1061.10	1216.50	1216.50	1317.90	1377.60	1436.70	1495.20	1557.30	1616.10	1675.80	1734.30	1796.10	1796.10	1796.10	1796.10	1796.10
Oct-85	1092.90	1253.10	1253.10	1357.50	1419.00	1479.90	1540.20	1604.10	1664.70	1726.20	1786.20	1850.10	1850.10	1850.10	1850.10	1850.10
Jan-87	1125.60	1290.60	1290.60	1398.30	1461.60	1524.30	1586.40	1652.10	1714.50	1778.10	1839.90	1905.60	1905.60	1905.60	1905.60	1905.60
Jan-88	1148.10	1316.40	1316.40	1426.20	1490.70	1554.90	1618.20	1685.10	1748.70	1813.80	1876.80	1943.70	1943.70	1943.70	1943.70	1943.70
Jan-89	1195.20	1370.40	1370.40	1484.70	1551.90	1618.80	1684.50	1754.10	1820.40	1888.20	1953.60	2023.50	2023.50	2023.50	2023.50	2023.50
Jan-90	1238.10	1419.60	1419.60	1538.10	167.70	1677.00	1745.10	1817.10	1885.80	1956.30	2023.80	2096.40	2096.40	2096.40	2096.40	2096.40
Jan-91	1288.80	1477.80	1477.80	1601.10	1673.70	1745.70	1816.50	1891.50	1963.20	2036.40	2106.90	2182.50	2182.50	2182.50	2182.50	2182.50
Jan-92	1342.80	1539.90	1539.90	1668.30	1743.90	1818.90	1892.70	1971.00	2045.70	2121.90	2195.40	2274.30	2274.30	2274.30	2274.30	2274.30
Jan-93	1392.60	1596.90	1596.90	1730.10	1808.40	1886.10	1962.60	2043.90	2121.30	2200.50	2276.70	2358.30	2358.30	2358.30	2358.30	2358.30
Jan-94	1423.20	1632.00	1632.00	1768.20	1848.30	1927.50	2005.80	2088.90	2168.10	2248.80	2326.80	2410.20	2410.20	2410.20	2410.20	2410.20
Jan-95	1460.10	1674.30	1674.30	1814.10	1896.30	1977.60	2058.00	2143.20	2224.50	2307.30	2387.40	2472.90	2472.90	2472.90	2472.90	2472.90
Jan-96	1495.20	1714.50	1714.50	1857.60	1941.90	2025.00	2107.50	2194.50	2277.90	2362.80	2444.70	2532.30	2532.30	2532.30	2532.30	2532.30
Jan-97	1540.20	1765.80	1765.80	1913.40	2000.10	2085.90	2170.80	2260.20	2346.30	2433.60	2517.90	2608.20	2608.20	2608.20	2608.20	2608.20

Pay Grade W-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-98	1583.40	1815.30	1815.30	1967.10	2056.20	2144.40	2231.70	2323.50	2412.00	2501.70	2588.40	2681.10	2681.10	2681.10	2681.10	2681.10
Jan-99	1640.40	1880.70	1880.70	2037.90	2130.30	2221.50	2312.10	2407.20	2498.70	2591.70	2681.70	2777.70	2777.70	2777.70	2777.70	2777.70
Jan-00	1719.00	1971.00	1971.00	2135.70	2232.60	2328.00	2423.10	2522.70	2618.70	2716.20	2810.40	2910.90	2910.90	2910.90	2910.90	2910.90
Jul-00	1719.00	1971.00	1971.00	2135.70	2232.60	2332.80	2433.30	2533.20	2634.00	2734.80	2835.00	2910.90	2910.90	2910.90	2910.90	2910.90
Jan-01	1782.60	2043.90	2043.90	2214.60	2315.10	2419.20	2523.30	2626.80	2731.50	2835.90	2940.00	3018.60	3018.60	3018.60	3018.60	3018.60
Jan-02	2049.90	2217.60	2330.10	2402.70	2511.90	2624.70	2737.80	2850.00	2963.70	3077.10	3189.90	3275.10	3275.10	3275.10	3275.10	3275.10
Jan-03	2133.90	2308.50	2425.50	2501.10	2662.50	2782.20	2888.40	3006.90	3085.20	3203.40	3320.70	3409.50	3409.50	3409.50	3409.50	3409.50
Jan-04	2212.80	2394.00	2515.20	2593.50	2802.30	2928.30	3039.90	3164.70	3247.20	3321.90	3443.70	3535.80	3535.80	3535.80	3535.80	3535.80
Jan-05	2290.20	2477.70	2603.10	2684.40	2900.40	3030.90	3146.40	3275.40	3360.90	3438.30	3564.30	3659.70	3659.70	3659.70	3659.70	3659.70
Jan-06	2361.30	2554.50	2683.80	2767.50	2990.40	3124.80	3243.90	3376.80	3465.00	3544.80	3674.70	3773.10	3773.10	3773.10	3773.10	3773.10
Jan-07	2413.20	2610.60	2742.90	2828.40	3056.10	3193.50	3315.30	3451.20	3541.20	3622.80	3755.40	3856.20	3856.20	3856.20	3856.20	3856.20
Apr-07	2413.20	2672.40	2742.90	2890.50	3065.10	3322.20	3442.20	3610.20	3775.50	3905.10	4024.50	4170.00	4170.00	4170.00	4170.00	4170.00
Jan-08	2497.80	2766.00	2838.90	2991.60	3172.50	3438.60	3562.80	3736.50	3907.50	4041.90	4165.50	4316.10	4316.10	4316.10	4316.10	4316.10
Jan-09	2595.30	2874.00	2949.60	3108.30	3296.10	3572.70	3701.70	3882.30	4059.90	4199.40	4328.10	4484.40	4484.40	4484.40	4484.40	4484.40
Jan-10	2683.50	2971.80	3049.80	3213.90	3408.30	3694.20	3827.70	4014.30	4197.90	4342.20	4475.40	4636.80	4636.80	4636.80	4636.80	4636.80
Jan-11	2721.00	3013.50	3092.40	3258.90	3456.00	3745.80	3881.40	4070.40	4256.70	4403.10	4538.10	4701.60	4701.60	4701.60	4701.60	4701.60
Jan-12	2764.50	3061.80	3141.90	3311.10	3511.20	3805.80	3943.50	4135.50	4324.80	4473.60	4610.70	4776.90	4776.90	4776.90	4776.90	4776.90
Jan-13	2811.60	3114.00	3195.30	3367.50	3570.90	3870.60	4010.40	4205.70	4398.30	4549.80	4689.00	4858.20	4858.20	4858.20	4858.20	4858.20
Jan-14	2839.80	3145.20	3227.40	3401.10	3606.60	3909.30	4050.60	4247.70	4442.40	4595.40	4735.80	4906.80	4906.80	4906.80	4906.80	4906.80
Jan-15	2868.30	3176.70	3259.80	3435.00	3642.60	3948.30	4091.10	4290.30	4486.80	4641.30	4783.20	4956.00	4956.00	4956.00	4956.00	4956.00

Pay Grade E-9																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jun-58							380.00	380.00	400.00	410.00	420.00	430.00	440.00	440.00	440.00	440.00
Oct-63							435.00	445.00	455.00	465.00	475.00	485.00	510.00	510.00	560.00	560.00
Sep-64							445.80	456.00	466.50	476.70	486.90	497.10	522.90	522.90	573.90	573.90
Sep-65							494.70	506.10	517.80	529.20	540.60	551.70	580.50	580.50	636.90	636.90
Jul-66							510.60	522.30	534.30	546.00	558.00	569.40	599.10	599.10	657.30	657.30
Oct-67							539.10	551.40	564.30	576.60	589.20	601.20	632.70	632.70	694.20	694.20
Jul-68							576.30	589.50	603.30	616.50	630.00	642.60	676.50	676.50	742.20	742.20
Jul-69							648.90	663.90	679.20	694.20	709.50	723.60	761.70	761.70	835.80	835.80
Jan-70							701.40	717.60	734.10	750.30	767.10	782.10	823.50	823.50	903.60	903.60
Jan-71							756.90	774.30	792.00	809.70	827.70	843.90	888.60	888.60	975.00	975.00
Nov-71							756.90	774.30	792.00	809.70	827.70	843.90	888.60	888.60	975.00	975.00
Jan-72							811.50	830.10	849.00	868.20	887.40	904.80	952.80	952.80	1045.20	1045.20
Oct-72							865.80	885.60	905.70	926.40	946.80	965.40	1016.40	1016.40	1115.10	1115.10
Oct-73							919.20	940.20	961.50	983.70	1005.30	1025.10	1079.10	1079.10	1183.80	1183.80
Oct-74							969.90	992.10	1014.60	1038.00	1060.80	1081.80	1138.80	1138.80	1249.20	1249.20
Oct-75							1018.50	1041.60	1065.30	1089.90	1113.90	1135.80	1195.80	1195.80	1311.60	1311.60
Oct-76							1055.40	1079.40	1104.00	1129.50	1154.10	1176.90	1239.00	1239.00	1359.00	1359.00
Oct-77							1120.80	1146.30	1172.40	1199.40	1225.80	1249.80	1315.80	1315.80	1443.30	1443.30
Oct-78							1182.30	1209.30	1236.90	1265.40	1293.30	1318.50	1388.10	1388.10	1522.80	1522.80
Oct-79							1265.40	1294.20	1323.60	1354.20	1384.20	1411.20	1485.60	1485.60	1629.60	1629.60
Oct-80							1413.60	1445.70	1478.40	1512.60	1546.20	1576.20	1659.30	1659.30	1829.40	1820.40
Oct-81							1653.90	1691.40	1729.80	1769.70	1809.00	1844.10	1941.30	1941.30	2130.00	2130.00
Oct-82							1720.20	1759.20	1799.10	1840.50	1881.30	1917.90	2019.00	2019.00	2215.20	2215.20
Jan-84							1788.90	1829.70	1871.10	1914.00	1956.60	1994.70	2099.70	2099.70	2303.70	2303.70
Jan-85							1860.60	1902.90	1945.80	1990.50	2034.90	2074.50	2183.70	2183.70	2395.80	2395.80

Pay Grade E-9																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-85							1916.40	1959.90	2004.30	2050.20	2095.80	2136.60	2249.10	2249.10	2467.80	2467.80
Jan-87							1974.00	2018.70	2064.30	2111.70	2158.80	2200.80	2316.60	2316.60	2541.90	2541.90
Jan-88							2013.60	2059.20	2105.70	2154.00	2202.00	2244.90	2362.80	2362.80	2592.60	2592.60
Jan-89							2096.10	2143.50	2192.10	2242.20	2292.30	2337.00	2459.70	2459.70	2698.80	2698.80
Jan-90							2171.70	2220.60	2271.00	2322.90	2374.80	2421.00	2548.20	2548.20	2796.00	2796.00
Jan-91							2260.80	2311.50	2364.00	2418.00	2472.30	2520.30	2652.60	2652.60	2910.60	2910.60
Jan-92							2355.90	2408.70	2463.30	2519.70	2576.10	2626.20	2763.90	2763.90	3032.70	3032.70
Jan-93							2443.20	2497.80	2554.50	2613.00	2671.50	2723.40	2866.20	2977.70	3144.90	3144.90
Jan-94							2496.90	2552.70	2610.60	2670.60	2730.30	2783.40	2929.20	3043.20	3214.20	3214.20
Jan-95							2561.70	2619.00	2678.40	2739.90	2801.40	2855.70	3005.40	3122.40	3297.90	3297.90
Jan-96							2623.20	2682.00	2742.60	2805.60	2868.60	2924.10	3077.40	3197.40	3377.10	3377.10
Jan-97							2701.80	2762.40	2824.80	2889.90	2954.70	3011.70	3169.80	3293.40	3478.50	3478.50
Jan-98							2777.40	2839.80	2904.00	2970.90	3037.50	3096.00	3258.60	3385.50	3576.00	3576.00
Jan-99							2877.30	2942.10	3008.40	3078.00	3147.00	3207.60	3375.90	3507.30	3704.70	3704.70
Jan-00							3015.30	3083.40	3152.70	3225.60	3298.20	3361.50	3537.90	3675.60	3882.60	3882.60
Jul-00							3015.30	3083.40	3169.80	3271.50	3373.20	3473.40	3609.30	3744.00	3915.90	3915.90
Jan-01							3126.90	3197.40	3287.10	3392.40	3498.00	3601.80	3742.80	3882.60	4060.80	4060.80
Jan-02							3423.90	3501.30	3599.40	3714.60	3830.40	3944.10	4098.30	4251.30	4467.00	4467.00
Jan-03							3564.30	3645.00	3747.00	3867.00	3987.30	4180.80	4344.30	4506.30	4757.40	4757.40
Jan-04							3769.20	3854.70	3962.40	4089.30	4216.50	4421.10	4594.20	4776.60	5054.70	5054.70
Jan-05							3901.20	3989.70	4101.00	4232.40	4364.10	4575.90	4755.00	4943.70	5231.70	5231.70
Jan-06							4022.10	4113.30	4228.20	4363.50	4499.40	4717.80	4902.30	5097.00	5394.00	5394.00
Jan-07							4110.60	4203.90	4321.20	4459.50	4598.40	4821.60	5010.30	5209.20	5512.80	5788.50
Apr-07							4254.60	4350.90	4472.40	4615.50	4759.20	4990.50	5185.80	5391.60	5705.70	5991.00
Jan-08							4420.50	4520.70	4646.70	4795.50	4944.90	5185.20	5388.00	5601.90	5928.30	6224.70

Pay Grade E-9															
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-09							4420.50	4520.70	4646.70	4795.50	4944.90	5185.20	5388.00	5601.90	5928.30	6224.70
Jan-10							4570.80	4674.30	4804.80	4958.40	5112.90	5361.60	5571.30	5792.40	6129.90	6436.20
Jan-11							4634.70	4739.70	4872.00	5027.70	5184.60	5436.60	5649.30	5873.40	6215.70	6526.20
Jan-12							4708.80	4815.60	4950.00	5108.10	5267.70	5523.60	5739.60	5967.30	6315.30	6630.60
Jan-13							4788.90	4897.50	5034.30	5194.80	5357.40	5617.50	5837.10	6068.70	6422.70	6743.40
Jan-14							4836.90	4946.40	5084.70	5246.70	5411.10	5673.60	5895.60	6129.30	6486.90	6810.90
Jan-15							4885.20	4995.90	5135.40	5299.20	5465.10	5730.30	5954.70	6190.50	6551.70	6879.00

Pay Grade E-8																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jun-58						310.00	320.00	330.00	340.00	350.00	360.00	370.00	380.00	380.00	380.00	380.00
Oct-63						365.00	375.00	385.00	395.00	405.00	415.00	425.00	450.00	450.00	500.00	500.00
Sep-64						374.10	384.30	394.50	405.00	415.20	425.40	435.60	461.40	461.40	512.40	512.40
Sep-65						415.20	426.60	438.00	449.40	460.80	472.20	483.60	512.10	512.10	568.80	568.80
Jul-66						428.40	440.40	452.10	463.80	475.50	487.20	499.20	528.60	528.60	587.10	587.10
Oct-67						452.40	465.00	477.30	489.90	502.20	514.50	527.10	558.30	558.30	620.10	620.10
Jul-68						483.60	497.10	510.30	523.80	537.00	549.90	563.40	596.70	596.70	663.00	663.00
Jul-69						544.50	559.80	574.50	589.80	604.80	619.20	634.50	672.00	672.00	746.40	746.40
Jan-70						588.60	605.10	621.00	637.50	653.70	669.30	685.80	726.30	726.30	807.00	807.00
Jan-71						635.10	652.80	670.20	687.90	705.30	722.10	740.10	783.60	783.60	870.90	870.90
Nov-71						635.10	652.80	670.20	687.90	705.30	722.10	740.10	783.60	783.60	870.90	870.90

Pay Grade E-8																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over20	Over 22	Over 24	Over 26	Over 30
Jan-72						681.00	699.90	718.50	737.40	756.30	774.30	793.50	840.00	840.00	933.60	933.60
Oct-72						726.60	746.70	766.50	786.60	807.00	826.20	846.60	896.10	896.10	996.00	996.00
Oct-73						771.30	792.90	813.90	835.20	856.80	877.20	898.80	951.30	951.30	1057.50	1057.50
Oct-74						813.90	836.70	858.90	881.40	904.20	925.50	948.30	1003.80	1003.80	1116.00	1116.00
Oct-75						854.70	878.40	901.80	925.50	949.50	971.70	995.70	1053.90	1053.90	1171.80	1171.80
Oct-76						885.60	910.20	934.50	959.10	984.00	1006.80	1031.70	1092.00	1092.00	1214.10	1214.10
Oct-77						940.50	966.60	992.40	1018.50	1044.90	1069.20	1095.60	1159.80	1159.80	1289.40	1289.40
Oct-78						992.10	1019.70	1047.00	1074.60	1102.50	1128.00	1155.90	1223.70	1223.70	1360.20	1360.20
Oct-79						1061.70	1091.40	1120.50	1149.90	1179.90	1207.20	1236.90	1309.50	1309.50	1455.60	1455.60
Oct-80						1185.90	1219.20	1251.60	1284.30	1317.90	1348.50	1381.50	1462.80	1462.80	1626.00	1626.00
Oct-81						1387.50	1426.50	1464.30	1502.70	1542.00	1577.70	1616.40	1711.50	1711.50	1902.30	1902.30
Oct-82						1443.00	1483.80	1522.80	1562.70	1603.80	1640.70	1681.20	1779.90	1779.90	1978.50	1978.50
Jan-84						1500.60	1543.20	1583.70	1625.10	1668.00	1706.40	1748.40	1851.00	1851.00	2057.70	2057.70
Jan-85						1560.60	1605.00	1647.00	1690.20	1734.60	1774.80	1818.30	1925.10	1925.10	2139.90	2139.90
Oct-85						1607.40	1653.30	1696.50	1740.90	1786.50	1827.90	1872.90	1983.00	1983.00	2204.10	2204.10
Jan-87						1655.70	1702.80	1747.50	1793.10	1840.20	1882.80	1929.00	2042.40	2042.40	2270.10	2270.10
Jan-88						1688.70	1737.00	1782.60	1829.10	1877.10	1920.60	1967.70	2083.20	2083.20	2315.40	2315.40
Jan-89						1758.00	1808.10	1855.80	1904.10	1954.20	1999.20	2048.40	2168.70	2168.70	2410.20	2410.20
Jan-90						1821.30	1873.20	1922.70	1972.50	2024.70	2071.20	2122.20	2246.70	2246.70	2496.90	2496.90
Jan-91						1896.00	1950.00	2001.60	2053.50	2107.80	2156.10	2209.20	2338.80	2338.80	2599.20	2599.20
Jan-92						1975.50	2031.90	2085.60	2139.60	2196.30	2246.70	2301.90	2436.90	2436.90	2708.40	2708.40
Jan-93						2048.70	2107.20	2162.70	2218.80	2277.60	2329.80	2387.10	2527.20	2639.70	2808.60	2808.60
Jan-94						2093.70	2153.70	2210.40	2267.70	2327.70	2381.10	2439.60	2582.70	2697.90	2870.40	2870.40
Jan-95						2148.00	2209.80	2268.00	2326.80	2388.30	2442.90	2502.90	2649.90	2768.10	2945.10	2945.10
Jan-96						2199.60	2262.90	2322.30	2382.60	2445.60	2501.40	2562.90	2713.50	2834.40	3015.90	3015.90

Pay Grade E-8																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-97						2265.60	2330.70	2391.90	2454.00	2519.10	2576.40	2639.70	2794.80	2919.30	3106.50	3106.50
Jan-98						2328.90	2396.10	2458.80	2522.70	2589.60	2648.40	2713.50	2873.10	3000.90	3193.50	3193.50
Jan-99						2412.60	2482.50	2547.30	2613.60	2682.90	2743.80	2811.30	2976.60	3108.90	3308.40	3308.40
Jan-00						2528.40	2601.60	2669.70	2739.00	2811.60	2875.50	2946.30	3119.40	3258.00	3467.10	3467.10
Jul-00						2528.40	2601.60	2669.70	2751.60	2840.10	2932.50	3026.10	3161.10	3295.50	3483.60	3483.60
Jan-01						2622.00	2697.90	2768.40	2853.30	2945.10	3041.10	3138.00	3278.10	3417.30	3612.60	3612.60
Jan-02						2858.10	2940.60	3017.70	3110.10	3210.30	3314.70	3420.30	3573.00	3724.80	3937.80	3937.80
Jan-03						2975.40	3061.20	3141.30	3237.60	3342.00	3530.10	3625.50	3787.50	3877.50	4099.20	4099.20
Jan-04						3085.50	3222.00	3306.30	3407.70	3517.50	3715.50	3815.70	3986.40	4081.20	4314.30	4314.30
Jan-05						3193.50	3334.80	3422.10	3527.10	3640.50	3845.40	3949.20	4125.90	4224.00	4465.20	4465.20
Jan-06						3292.50	3438.30	3528.30	3636.30	3753.30	3964.50	4071.60	4253.70	4354.80	4603.50	4603.50
Jan-07						3364.80	3513.90	3606.00	3716.40	3835.80	4051.80	4161.30	4347.30	4450.50	4704.90	4799.10
Apr-07						3482.70	3636.90	3732.30	3846.60	3970.20	4193.70	4306.80	4499.40	4606.20	4869.60	4967.10
Jan-08						3618.60	3778.80	3877.80	3996.60	4125.00	4357.20	4474.80	4674.90	4785.90	5059.50	5160.90
Jan-09						3618.60	3778.80	3877.80	3996.60	4125.00	4357.20	4474.80	4674.90	4785.90	5059.50	5160.90
Jan-10						3741.60	3907.20	4009.50	4132.50	4265.40	4505.40	4626.90	4833.90	4948.50	5231.40	5336.40
Jan-11						3794.10	3961.80	4065.60	4190.40	4325.10	4568.40	4691.70	4901.70	5017.80	5304.60	5411.10
Jan-12						3854.70	4025.10	4130.70	4257.30	4394.40	4641.60	4766.70	4980.00	5098.20	5389.50	5497.80
Jan-13						3920.10	4093.50	4200.90	4329.60	4469.10	4720.50	4847.70	5064.60	5184.90	5481.00	5591.40
Jan-14						3959.40	4134.30	4242.90	4372.80	4513.80	4767.60	4896.30	5115.30	5236.80	5535.90	5647.20
Jan-15						3999.00	4175.70	4285.20	4416.60	4558.80	4815.30	4945.20	5166.60	5289.30	5591.40	5703.60

Pay Grade E-7																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Oct-40	126.00	126.00	126.00	138.60	138.60	144.90	144.90	151.20	151.20	157.50	157.50	157.50	157.50	157.50	157.50	157.50
Aug-41	136.00	136.00	136.00	148.60	148.60	154.90	154.90	161.20	161.20	167.50	167.50	167.50	167.50	167.50	167.50	167.50
Jun-42	138.00	138.00	144.90	144.90	151.80	151.80	158.70	165.60	165.60	172.50	179.40	186.30	193.20	193.20	200.10	207.00
Jul-46	165.00	165.00	173.25	173.25	181.50	181.50	189.75	198.00	198.00	206.25	214.50	222.75	231.00	231.00	239.25	247.50
Oct-49	198.45	198.45	198.45	205.80	213.15	220.50	227.85	235.20	242.55	249.90	264.60	264.60	279.30	279.30	294.00	294.00
May-52	206.39	206.39	206.39	214.03	221.68	229.32	236.96	244.61	252.25	259.90	275.18	275.18	290.47	290.47	305.76	305.76
Apr-55	206.39	222.30	222.30	230.10	237.90	253.50	261.30	273.00	280.80	288.80	304.20	304.20	319.80	319.80	335.40	335.40
Jun-58	206.39	236.00	236.00	250.00	260.00	270.00	285.00	300.00	310.00	325.00	340.00	350.00	350.00	350.00	350.00	350.00
Oct-63	206.39	275.00	285.00	295.00	305.00	315.00	325.00	335.00	350.00	360.00	370.00	375.00	400.00	400.00	450.00	450.00
Sep-64	206.39	282.00	292.20	302.40	312.60	322.80	333.00	343.50	358.80	369.00	379.20	384.30	410.10	410.10	461.40	461.40
Sep-65	261.00	312.90	324.30	335.70	347.10	358.20	369.60	381.30	398.40	409.50	420.90	426.60	455.10	455.10	512.10	512.10
Jul-66	269.40	322.80	334.80	346.50	358.20	369.60	381.30	393.60	411.00	422.70	434.40	440.40	469.80	469.80	528.60	528.60
Oct-67	284.40	340.80	353.40	366.00	378.30	390.30	402.60	415.50	434.10	446.40	458.70	465.00	496.20	496.20	558.30	558.30
Jul-68	303.90	364.20	377.70	391.20	404.40	417.30	430.50	444.30	464.10	477.30	490.50	497.10	530.40	530.40	596.70	596.70
Jul-69	342.30	410.10	425.40	440.40	455.40	469.80	484.80	500.40	522.60	537.30	552.30	559.80	597.30	597.30	672.00	672.00
Jan-70	369.90	443.40	459.90	476.10	492.30	507.90	524.10	540.90	564.90	580.80	597.00	605.10	645.60	645.60	726.30	726.30
Jan-71	399.00	478.50	496.20	513.60	531.30	548.10	565.50	583.50	609.60	626.70	644.10	652.80	696.60	696.60	783.60	783.60
Nov-71	443.40	478.50	496.20	513.60	531.30	548.10	565.50	583.50	609.60	626.70	644.10	652.80	696.60	696.60	783.60	783.60
Jan-72	475.50	513.00	531.90	550.50	569.70	587.70	606.30	625.50	653.70	672.00	690.60	699.90	746.70	746.70	840.00	840.00
Oct-72	507.30	547.20	567.60	587.40	607.80	627.00	646.80	667.20	697.50	717.00	736.80	746.70	796.80	796.80	896.10	896.10
Oct-73	538.50	581.10	602.70	623.70	645.30	665.70	686.70	708.30	740.40	761.10	782.40	792.90	846.00	846.00	951.30	951.30
Oct-74	568.20	613.20	636.00	658.20	681.00	702.30	724.50	747.30	781.20	803.10	825.60	836.70	892.80	892.80	1003.80	1003.80
Oct-75	596.70	643.80	667.80	691.20	715.20	737.40	760.80	784.80	820.20	843.30	867.00	878.40	937.50	937.50	1053.90	1053.90
Oct-76	618.30	667.20	692.10	716.10	741.00	764.10	788.40	813.30	849.90	873.90	898.50	910.20	971.40	971.40	1092.00	1092.00
Oct-77	656.70	708.60	735.00	760.50	786.90	811.50	837.30	863.70	902.70	928.20	954.30	966.60	1031.70	1031.70	1159.80	1159.80

Pay Grade E-7																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-78	692.70	747.60	775.50	802.20	820.10	856.20	883.50	911.10	952.20	979.20	1006.80	1019.70	1088.40	1088.40	1223.70	1223.70
Oct-79	741.30	800.10	829.80	858.60	888.30	916.20	945.60	975.00	1019.10	1047.90	1077.60	1091.40	1164.90	1164.90	1309.50	1309.50
Oct-80	828.00	893.70	927.00	959.10	992.10	1023.30	1056.30	1089.00	1138.20	1170.60	1203.60	1219.20	1301.10	1301.10	1462.80	1462.80
Oct-81	968.70	1045.50	1084.50	1122.00	1160.70	1197.30	1236.00	1274.10	1331.70	1369.50	1408.20	1426.50	1522.20	1522.20	1711.50	1711.50
Oct-82	1007.40	1087.20	1128.00	1167.00	1207.20	1245.30	1285.50	1325.10	1385.10	1424.40	1464.60	1483.50	1583.10	1583.10	1779.90	1779.90
Jan-84	1047.60	1130.70	1173.00	1213.80	1255.50	1295.10	1336.80	1378.20	1440.60	1481.40	1523.10	1542.90	1646.40	1646.40	1851.00	1851.00
Jan-85	1089.60	1176.00	1219.80	1262.40	1305.60	1347.00	1390.20	1433.40	1498.20	1540.80	1584.00	1604.70	1712.40	1712.40	1925.10	1925.10
Oct-85	1122.30	1211.40	1256.40	1300.20	1344.90	1387.50	1431.90	1476.30	1543.20	1587.00	1631.40	1652.70	1763.70	1763.70	1983.00	1983.00
Jan-87	1155.90	1247.70	1294.20	1339.20	1385.10	1429.20	1474.80	1520.70	1589.40	1634.70	1680.30	1702.20	1816.50	1816.50	2042.40	2042.40
Jan-88	1179.00	1272.60	1320.00	1365.90	1412.70	1457.70	1504.20	1551.00	1621.20	1667.40	1713.90	1736.10	1852.80	1852.80	2083.20	2083.20
Jan-89	1277.30	1324.80	1374.00	1422.00	1470.60	1517.40	1566.00	1614.60	1687.80	1735.80	1784.10	1807.20	1928.70	1928.70	2168.70	2168.70
Jan-90	1271.40	1372.50	1423.50	1473.30	1523.40	1572.00	1622.40	1672.80	1748.70	1798.20	1848.30	1872.30	1998.00	1998.00	2246.70	2246.70
Jan-91	1323.60	1428.90	1482.00	1533.60	1585.80	1636.50	1689.00	1741.50	1820.40	1872.00	1924.20	1949.10	2079.90	2079.90	2338.80	2338.80
Jan-92	1379.10	1488.90	1544.10	1598.10	1652.40	1705.20	1759.80	1814.70	1896.90	1950.60	2004.90	2031.00	2167.20	2167.20	2436.90	2436.90
Jan-93	1430.10	1544.10	1601.10	1657.20	1713.60	1768.20	1824.90	1881.90	1967.10	2022.90	2079.00	2106.00	2247.40	2359.30	2527.20	2527.20
Jan-94	1461.60	1578.00	1636.20	1693.80	1751.40	1807.20	1865.10	1923.30	2010.30	2067.30	2124.60	2152.20	2296.80	2411.10	2582.70	2582.70
Jan-95	1499.70	1619.10	1678.80	1737.90	1797.00	1854.30	1913.70	1973.40	2062.50	2121.00	2179.80	2208.30	2356.50	2473.80	2649.90	2649.90
Jan-96	1535.70	1658.10	1719.00	1779.60	1840.20	1898.70	1959.60	2020.80	2112.00	2172.00	2232.00	2261.40	2413.20	2533.20	2713.50	2713.50
Jan-97	1581.90	1707.90	1770.60	1833.00	1895.40	1955.70	2018.40	2081.40	2175.30	2237.10	2298.90	2329.20	2485.50	2609.10	2794.80	2794.80
Jan-98	1626.30	1755.60	1820.10	1884.30	1948.50	2010.60	2074.80	2139.60	2236.20	2299.80	2363.40	2394.30	2555.10	2682.30	2873.10	2873.10
Jan-99	1684.80	1818.90	1885.50	1952.10	2018.70	2082.90	2149.50	2216.70	2316.60	2382.60	2448.60	2480.40	2647.20	2778.90	2976.60	2976.60
Jan-00	1765.80	1906.20	1976.10	2045.70	2115.60	2182.80	2252.70	2323.20	2427.90	2496.90	2566.20	2599.50	2774.40	2912.40	3119.40	3119.40
Jul-00	1765.80	1927.80	2001.00	2073.00	2147.70	2220.90	2294.10	2367.30	2439.30	2514.00	2588.10	2660.40	2787.60	2926.20	3134.40	3134.40
Jan-01	1831.20	1999.20	2075.10	2149.80	2227.20	2303.10	2379.00	2454.90	2529.60	2607.00	2683.80	2758.80	2890.80	3034.50	3250.50	3250.50
Jul-01	1831.20	1999.20	2075.10	2149.80	2228.10	2362.20	2437.80	2512.80	2588.10	2666.10	2742.00	2817.90	2949.60	3034.80	3250.50	3250.50

Pay Grade E-7																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-02	1986.90	2169.00	2251.50	2332.50	2417.40	2562.90	2645.10	2726.40	2808.00	2892.60	2975.10	3057.30	3200.40	3292.80	3526.80	3526.80
Jan-03	2068.50	2257.80	2343.90	2428.20	2516.40	2667.90	2753.40	2838.30	2990.40	3066.30	3138.60	3182.70	3331.50	3427.80	3671.40	3671.40
Jan-04	2145.00	2341.20	2430.60	2549.70	2642.10	2801.40	2891.10	2980.20	3139.80	3219.60	3295.50	3341.70	3495.00	3599.10	3855.00	3855.00
Jan-05	2220.00	2423.10	2515.80	2638.80	2734.50	2899.50	2992.20	3084.60	3249.60	3332.40	3410.70	3458.70	3620.40	3725.10	3990.00	3990.00
Jan-06	2288.70	2498.10	2593.80	2720.70	2819.40	2989.50	3084.90	3180.30	3350.40	3435.60	3516.30	3565.80	3732.60	3840.60	4113.60	4113.60
Jan-07	2339.10	2553.00	2650.80	2780.70	2881.50	3055.20	3152.70	3250.20	3424.20	3511.20	3593.70	3644.10	3814.80	3925.20	4204.20	4204.20
Apr-07	2339.10	2553.00	2650.80	2780.70	2881.50	3055.20	3152.70	3326.70	3471.00	3569.70	3674.40	3715.50	3852.00	3925.20	4204.20	4204.20
Jan-08	2421.00	2642.40	2743.50	2877.90	2982.30	3162.00	3263.10	3443.10	3592.50	3694.50	3803.10	3845.40	3986.70	4062.60	4351.20	4351.20
Jan-09	2515.50	2745.60	2850.60	2990.10	3098.70	3285.30	3390.30	3577.50	3732.60	3838.50	3951.30	3995.40	4142.10	4221.00	4521.00	4521.00
Jan-10	2601.00	2838.90	2947.50	3091.80	3204.00	3396.90	3505.50	3699.00	3859.50	3969.00	4085.70	4131.30	4282.80	4364.40	4674.60	4674.60
Jan-11	2637.30	2878.50	2988.90	3135.00	3249.00	3444.60	3554.70	3750.90	3913.50	4024.50	4143.00	4189.20	4342.80	4425.60	4740.00	4740.00
Jan-12	2679.60	2924.70	3036.60	3185.10	3300.90	3499.80	3611.70	3810.90	3976.20	4089.00	4209.30	4256.10	4412.40	4496.40	4815.90	4815.90
Jan-13	2725.20	2974.50	3088.20	3239.10	3357.00	3559.20	3673.20	3875.70	4043.70	4158.60	4281.00	4328.40	4487.40	4572.90	4897.80	4897.80
Jan-14	2752.50	3004.20	3119.10	3271.50	3390.60	3594.90	3709.80	3914.40	4084.20	4200.30	4323.90	4371.60	4532.40	4618.50	4946.70	4946.70
Jan-15	2780.10	3034.20	3150.30	3304.20	3424.50	3630.90	3747.00	3953.40	4125.00	4242.30	4367.10	4415.40	4577.70	4664.70	4996.20	4996.20

Pay Grade E-6																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-40	84.00	84.00	84.00	92.40	92.40	96.60	96.60	100.80	100.80	105.00	105.00	105.00	105.00	105.00	105.00	105.00
Aug-41	94.00	94.00	94.00	102.40	102.40	106.60	106.60	110.80	110.80	115.00	115.00	115.00	115.00	115.00	115.00	115.00
Jun-42	114.00	114.00	119.70	119.70	125.40	125.40	131.10	136.80	136.80	142.50	148.20	153.90	159.60	159.60	165.30	171.00

Pay Grade E-6																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jul-46	135.00	135.00	141.75	141.75	148.50	148.50	155.25	162.00	162.00	168.75	175.50	182.25	189.00	189.00	195.75	202.50
Oct-49	169.05	169.05	169.05	176.40	183.75	191.10	198.45	205.80	213.15	220.50	235.20	235.20	249.90	249.90	249.90	249.90
May-52	175.81	175.81	175.81	183.46	191.10	198.74	206.39	214.03	221.68	229.32	244.61	244.61	259.90	259.90	259.90	259.90
Apr-55	175.81	187.20	187.20	195.00	214.50	222.30	234.00	241.80	249.60	257.40	273.00	273.00	288.60	288.60	288.60	288.60
Jun-58	175.81	200.00	200.00	225.00	235.00	245.00	255.00	265.00	275.00	280.00	290.00	290.00	290.00	290.00	290.00	290.00
Oct-63	175.81	240.00	250.00	260.00	270.00	280.00	290.00	305.00	315.00	325.00	330.00	330.00	330.00	330.00	330.00	330.00
Sep-64	175.81	246.00	256.20	266.40	276.90	287.10	297.30	312.60	322.80	333.00	338.40	338.40	338.40	338.40	338.40	338.40
Sep-65	225.00	273.00	284.40	295.80	307.50	318.60	330.00	347.10	358.20	369.60	375.60	375.60	375.60	375.60	375.60	375.60
Jul-66	232.20	281.70	293.40	305.40	317.40	328.80	340.50	358.20	369.60	381.30	387.60	387.60	387.60	387.60	387.60	387.60
Oct-67	245.10	297.60	309.90	322.50	335.10	347.10	359.70	378.30	390.30	402.60	409.20	409.20	409.20	409.20	409.20	409.20
Jul-68	261.90	318.00	331.20	344.70	358.20	371.10	384.60	404.40	417.30	430.50	437.40	437.40	437.40	437.40	437.40	437.40
Jul-69	294.90	358.20	372.90	388.20	403.20	417.90	433.20	455.40	469.80	484.80	492.60	492.60	492.60	492.60	492.60	492.60
Jan-70	318.90	387.30	403.20	419.70	435.90	451.80	468.30	492.30	507.90	524.10	532.50	532.50	532.50	532.50	532.50	532.50
Jan-71	344.10	417.90	435.00	453.00	470.40	487.50	505.20	531.30	548.10	565.50	574.50	574.50	574.50	574.50	574.50	574.50
Nov-71	382.80	417.90	435.00	453.00	470.40	487.50	505.20	531.30	548.10	565.50	574.50	574.50	574.50	574.50	574.50	574.50
Jan-72	410.40	447.90	466.50	485.70	504.30	522.60	541.50	569.70	587.70	606.30	615.90	615.90	615.90	615.90	615.90	615.90
Oct-72	438.00	477.90	497.70	518.10	537.90	557.70	577.80	607.80	627.00	646.80	657.00	657.00	657.00	657.00	657.00	657.00
Oct-73	465.00	507.30	528.30	550.20	571.20	592.20	613.50	645.30	665.70	686.70	697.50	697.50	697.50	697.50	697.50	697.50
Oct-74	490.80	535.20	557.40	580.50	602.70	624.90	647.40	681.00	702.30	724.50	735.90	735.90	735.90	735.90	735.90	735.90
Oct-75	515.40	561.90	585.30	609.60	632.70	656.10	679.80	715.20	737.40	760.80	772.80	772.80	772.80	772.80	772.80	772.80
Oct-76	534.00	582.30	606.60	631.80	655.50	679.80	704.40	741.00	764.10	788.40	800.70	800.70	800.70	800.70	800.70	800.70
Oct-77	567.00	618.30	644.10	671.10	696.00	721.80	748.20	786.90	811.50	837.30	850.20	850.20	850.20	850.20	850.20	850.20
Oct-78	598.20	652.20	679.50	708.00	734.40	761.40	789.30	830.10	856.20	883.50	897.00	897.00	897.00	897.00	897.00	897.00
Oct-79	640.20	698.10	727.20	757.80	786.00	814.80	844.80	888.30	916.20	945.60	960.00	960.00	960.00	960.00	960.00	960.00
Oct-80	715.20	779.70	812.40	846.60	878.10	910.20	943.50	992.10	1023.30	1056.30	1072.20	1072.20	1072.20	1072.20	1072.20	1072.20

Pay Grade E-6																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-81	833.10	908.40	946.50	986.40	1023.00	1060.50	1099.20	1155.90	1192.20	1230.60	1249.20	1249.20	1249.20	1249.20	1249.20	1249.20
Oct-82	866.40	944.70	984.30	1026.00	1063.80	1102.80	1143.30	1202.10	1239.90	1279.80	1299.30	1299.30	1299.30	1299.30	1299.30	1299.30
Jan-84	901.20	982.50	1023.60	1067.10	1106.40	1146.90	1188.90	1250.10	1289.40	1331.10	1351.20	1351.20	1351.20	1351.20	1351.20	1351.20
Jan-85	937.20	1021.80	1064.40	1109.70	1150.80	1192.80	1236.60	1300.20	1341.00	1384.20	1405.20	1405.20	1405.20	1405.20	1405.20	1405.20
Oct-85	965.40	1052.40	1096.20	1143.00	1185.30	1228.50	1273.80	1339.20	1381.20	1425.60	1447.50	1447.50	1447.50	1447.50	1447.50	1447.50
Jan-87	994.50	1083.90	1129.20	1177.20	1221.00	1265.40	1311.90	1379.40	1422.60	1468.50	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00
Jan-88	1014.30	1105.50	1151.70	1200.60	1245.30	1290.60	1338.00	1407.00	1451.10	1497.90	1520.70	1520.70	1520.70	1520.70	1520.70	1520.70
Jan-89	1056.00	1150.80	1198.80	1249.80	1296.30	1343.40	1392.90	1464.60	1510.50	1559.40	1583.10	1583.10	1583.10	1583.10	1583.10	1583.10
Jan-90	1094.10	1192.20	1242.00	1294.80	1343.10	1391.70	1443.00	1517.40	1564.80	1615.50	1640.10	1640.10	1640.10	1640.10	1640.10	1640.10
Jan-91	1139.10	1241.10	1293.00	1347.90	1398.30	1448.70	1502.10	1579.50	1629.00	1681.80	1707.30	1707.30	1707.30	1707.30	1707.30	1707.30
Jan-92	1186.80	1293.30	1347.30	1404.60	1457.10	1509.60	1565.10	1645.80	1697.40	1752.30	1779.00	1779.00	1779.00	1779.00	1779.00	1779.00
Jan-93	1230.60	1341.30	1397.10	1456.50	1511.10	1565.40	1623.00	1706.70	1760.10	1817.10	1844.70	1844.70	1844.70	1844.70	1844.70	1844.70
Jan-94	1257.60	1370.70	1427.70	1488.60	1544.40	1599.90	1658.70	1744.20	1798.80	1857.00	1885.20	1885.20	1885.20	1885.20	1885.20	1885.20
Jan-95	1290.30	1406.40	1464.90	1527.30	1584.60	1641.60	1701.90	1789.50	1845.60	1905.30	1934.10	1934.10	1934.10	1934.10	1934.10	1934.10
Jan-96	1321.20	1440.30	1500.00	1563.90	1622.70	1680.90	1742.70	1832.40	1890.00	1950.90	1980.60	1980.60	1980.60	1980.60	1980.60	1980.60
Jan-97	1360.80	1483.50	1545.00	1610.70	1671.30	1731.30	1794.90	1887.30	1946.70	2009.40	2040.00	2040.00	2040.00	2040.00	2040.00	2040.00
Jan-98	1398.90	1524.90	1588.20	1655.70	1718.10	1779.90	1845.30	1940.10	2001.30	2065.80	2097.00	2097.00	2097.00	2097.00	2097.00	2097.00
Jan-99	1449.30	1579.80	1645.50	1715.40	1779.90	1844.10	1911.60	2010.00	2073.30	2140.20	2172.60	2172.60	2172.60	2172.60	2172.60	2172.60
Jan-00	1518.90	1655.70	1724.40	1797.60	1865.40	1932.60	2003.40	2106.60	2172.90	2242.80	2277.00	2277.00	2277.00	2277.00	2277.00	2277.00
Jul-00	1518.90	1678.20	1752.60	1824.30	1899.30	1973.10	2047.20	2118.60	2191.50	2244.60	2283.30	2283.30	2285.70	2285.70	2285.70	2285.70
Jan-01	1575.00	1740.30	1817.40	1891.80	1969.50	2046.00	2122.80	2196.90	2272.50	2327.70	2367.90	2367.90	2370.30	2370.30	2370.30	2370.30
Jul-01	1575.00	1740.30	1817.40	1891.80	1969.80	2097.30	2174.10	2248.80	2325.00	2379.60	2421.30	2421.30	2421.30	2421.30	2421.30	2421.30
Jan-02	1701.00	1870.80	1953.60	2003.70	2117.40	2254.50	2337.30	2417.40	2499.30	2558.10	2602.80	2602.80	2602.80	2602.80	2602.80	2602.80
Jan-03	1770.60	1947.60	2033.70	2117.10	2204.10	2400.90	2477.40	2562.30	2636.70	2663.10	2709.60	2709.60	2709.60	2709.60	2709.60	2709.60
Jan-04	1855.50	2041.20	2131.20	2218.80	2310.00	2516.10	2596.20	2685.30	2763.30	2790.90	2809.80	2809.80	2809.80	2809.80	2809.80	2809.80

Pay Grade E-6																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jan-05	1920.30	2112.60	2205.90	2296.50	2391.00	2604.30	2687.10	2779.20	2859.90	2888.70	2908.20	2908.20	2908.20	2908.20	2908.20	2908.20
Jan-06	1979.70	2178.00	2274.30	2367.60	2465.10	2685.00	2770.50	2865.30	2948.70	2978.10	2998.50	2998.50	2998.50	2998.50	2998.50	2998.50
Jan-07	2023.20	2226.00	2324.40	2419.80	2519.40	2744.10	2831.40	2928.30	3013.50	3043.50	3064.50	3064.50	3064.50	3064.50	3064.50	3064.50
Apr-07	2023.20	2226.00	2324.40	2419.80	2519.40	2744.10	2831.40	3000.00	3051.90	3089.70	3133.50	3133.50	3133.50	3133.50	3133.50	3133.50
Jan-08	2094.00	2304.00	2405.70	2504.40	2607.60	2840.10	2930.40	3105.00	3158.70	3197.70	3243.30	3243.30	3243.30	3243.30	3243.30	3243.30
Jan-09	2175.60	2394.00	2499.60	2602.20	2709.30	2950.80	3044.70	3226.20	3282.00	3322.50	3369.90	3369.90	3369.90	3369.90	3369.90	3369.90
Jan-10	2249.70	2475.30	2584.50	2690.70	2801.40	3051.00	3148.20	3336.00	3393.60	3435.60	3484.50	3484.50	3484.50	3484.50	3484.50	3484.50
Jan-11	2281.20	2510.10	2620.80	2728.50	2840.70	3093.60	3192.30	3382.80	3441.00	3483.60	3533.40	3533.40	3533.40	3533.40	3533.40	3533.40
Jan-12	2317.80	2550.30	2662.80	2772.30	2886.30	3143.10	3243.30	3436.80	3496.20	3539.40	3589.80	3589.80	3589.80	3589.80	3589.80	3589.80
Jan-13	2357.10	2593.80	2708.10	2819.40	2935.50	3196.50	3298.50	3495.30	3555.60	3599.70	3650.70	3650.70	3650.70	3650.70	3650.70	3650.70
Jan-14	2380.80	2619.60	2735.10	2847.60	2964.90	3228.60	3331.50	3530.40	3591.30	3635.70	3687.30	3687.30	3687.30	3687.30	3687.30	3687.30
Jan-15	2404.50	2645.70	2762.40	2876.10	2994.60	3261.00	3364.80	3565.80	3627.30	3672.00	3724.20	3724.20	3724.20	3724.20	3724.20	3724.20

Pay Grade E-5																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Oct-40	72.00	72.00	72.00	79.20	79.20	82.80	82.80	86.40	86.40	90.00	90.00	90.00	90.00	90.00	90.00	90.00
Aug-41	82.00	82.00	82.00	89.20	89.20	92.80	92.80	96.40	96.40	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Jun-42	96.00	96.00	100.80	100.80	105.60	105.60	110.40	115.20	115.20	120.00	124.80	129.60	134.40	134.40	139.20	144.00
Jul-46	115.00	115.00	120.75	120.75	126.50	126.50	132.25	138.00	138.00	143.75	149.50	155.25	161.00	161.00	166.75	172.50
Oct-49	139.65	147.00	147.00	154.35	161.70	169.05	176.40	183.75	191.10	198.45	213.15	213.15	227.85	227.85	227.85	227.85
May-52	145.24	152.88	152.88	160.52	168.17	175.81	183.46	191.10	198.74	206.39	221.68	221.68	236.96	236.96	236.96	236.96

Pay Grade E-5																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Apr-55	145.24	163.80	163.80	183.30	191.10	202.80	210.60	218.40	226.20	234.00	241.80	241.80	257.50	257.50	257.50	257.50
Jun-58	145.24	180.00	180.00	205.00	210.00	220.00	240.00	240.00	240.00	240.00	240.00	240.00	240.00	240.00	240.00	240.00
Oct-63	145.24	210.00	220.00	230.00	245.00	255.00	266.00	275.00	280.00	280.00	280.00	280.00	280.00	280.00	280.00	280.00
Sep-64	145.24	215.40	225.60	235.80	251.10	261.30	271.50	282.00	287.10	287.10	287.10	287.10	287.10	287.10	287.10	287.10
Sep-65	194.10	239.10	250.50	261.60	278.70	290.10	301.50	312.90	318.60	318.60	318.60	318.60	318.60	318.60	318.60	318.60
Jul-66	200.40	246.90	258.60	270.00	287.70	299.40	311.10	322.80	328.80	328.80	328.80	328.80	328.80	328.80	328.80	328.80
Oct-67	211.50	260.70	273.00	285.00	303.90	316.20	328.50	340.80	347.10	347.10	347.10	347.10	347.10	347.10	347.10	347.10
Jul-68	226.20	278.70	291.90	304.80	324.90	338.10	351.30	364.20	371.10	371.10	371.10	371.10	371.10	371.10	371.10	371.10
Jul-69	254.70	313.80	328.80	343.20	365.70	380.70	395.70	410.10	417.90	417.90	417.90	417.90	417.90	417.90	417.90	417.90
Jan-70	275.40	339.30	355.50	371.10	395.40	411.60	427.80	443.40	451.80	451.80	451.80	451.80	451.80	451.80	451.80	451.80
Jan-71	297.30	366.00	383.70	400.50	426.60	444.00	461.70	470.50	487.50	487.50	487.50	487.50	487.50	487.50	487.50	487.50
Nov-71	336.30	366.00	383.70	400.50	426.60	444.00	461.70	470.50	487.50	487.50	487.50	487.50	487.50	487.50	487.50	487.50
Jan-72	360.60	392.40	411.30	429.30	457.50	476.10	495.00	513.00	522.60	522.60	522.60	522.60	522.60	522.60	522.60	522.60
Oct-72	384.60	418.80	438.90	458.10	488.10	507.90	528.00	547.20	557.70	557.70	557.70	557.70	557.70	557.70	557.70	557.70
Oct-73	408.30	444.60	465.90	486.30	518.10	539.10	560.70	581.10	592.20	592.20	592.20	592.20	592.20	592.20	592.20	592.20
Oct-74	430.80	469.60	491.70	513.00	546.60	568.80	591.60	613.20	624.90	624.90	624.90	624.90	624.90	624.90	624.90	624.90
Oct-75	452.40	492.60	516.30	538.80	573.90	597.30	621.30	643.80	656.10	656.10	656.10	656.10	656.10	656.10	656.10	656.10
Oct-76	468.90	510.30	534.90	558.30	594.60	618.90	643.80	667.20	679.80	679.80	679.80	679.80	679.80	679.80	679.80	679.80
Oct-77	498.00	541.80	568.20	592.80	631.50	657.30	683.70	708.60	721.80	721.80	721.80	721.80	721.80	721.80	721.80	721.80
Oct-78	525.30	571.50	599.40	625.50	666.30	693.60	721.20	747.60	761.40	761.40	761.40	761.40	761.40	761.40	761.40	761.40
Oct-79	562.20	611.70	641.40	669.30	713.10	742.20	771.90	800.10	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80
Oct-80	627.90	683.40	716.40	747.60	796.50	828.90	862.20	893.70	910.20	910.20	910.20	910.20	910.20	910.20	910.20	910.20
Oct-81	731.40	796.20	834.60	870.90	927.90	965.70	1004.40	1041.30	1060.50	1060.50	1060.50	1060.50	1060.50	1060.50	1060.50	1060.50
Oct-82	760.80	828.00	867.90	905.70	965.10	1004.40	1044.60	1083.00	1102.80	1102.80	1102.80	1102.80	1102.80	1102.80	1102.80	1102.80
Jan-84	791.10	861.00	902.70	942.00	1003.80	1044.60	1086.30	1126.20	1146.90	1146.90	1146.90	1146.90	1146.90	1146.90	1146.90	1146.90

Pay Grade E-5																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-85	822.60	895.50	938.70	979.80	1044.00	1086.30	1129.80	1171.20	1192.80	1192.80	1192.80	1192.80	1192.80	1192.80	1192.80	1192.80
Oct-85	847.20	922.50	966.90	1009.20	1075.20	1119.00	1163.70	1206.30	1228.50	1228.50	1228.50	1228.50	1228.50	1228.50	1228.50	1228.50
Jan-87	872.70	950.10	996.00	1039.50	1107.60	1152.60	1198.50	1242.60	1265.40	1265.40	1265.40	1265.40	1265.40	1265.40	1265.40	1265.40
Jan-88	890.10	969.00	1015.80	1060.20	1129.80	1175.70	1222.50	1267.50	1290.60	1290.60	1290.60	1290.60	1290.60	1290.60	1290.60	1290.60
Jan-89	927.60	1008.60	1057.50	1103.70	1176.00	1224.00	1272.60	1319.40	1343.40	1343.40	1343.40	1343.40	1343.40	1343.40	1343.40	1343.40
Jan-90	960.00	1044.90	1095.60	1143.30	1218.30	1268.10	1318.50	1366.80	1391.70	1391.70	1391.70	1391.70	1391.70	1391.70	1391.70	1391.70
Jan-91	999.30	1087.80	1140.60	1190.10	1286.40	1320.00	1372.50	1422.90	1448.70	1448.70	1448.70	1448.70	1448.70	1448.70	1448.70	1448.70
Jan-92	1041.30	1133.40	1188.60	1240.20	1321.80	1375.50	1430.10	1482.60	1509.60	1509.60	1509.60	1509.60	1509.60	1509.60	1509.60	1509.60
Jan-93	1079.70	1175.40	1232.70	1286.10	1370.70	1426.50	1482.90	1537.50	1565.40	1565.40	1565.40	1565.40	1565.40	1565.40	1565.40	1565.40
Jan-94	1103.40	1201.20	1259.70	1314.30	1401.00	1458.00	1515.60	1571.40	1599.90	1599.90	1599.90	1599.90	1599.90	1599.90	1599.90	1599.90
Jan-95	1132.20	1232.40	1292.40	1348.50	1437.30	1495.80	1554.90	1612.20	1641.60	1641.60	1641.60	1641.60	1641.60	1641.60	1641.60	1641.60
Jan-96	1159.50	1262.10	1323.30	1380.90	1471.80	1531.80	1592.10	1650.90	1680.90	1680.90	1680.90	1680.90	1680.90	1680.90	1680.90	1680.90
Jan-97	1194.30	1299.90	1362.90	1422.30	1515.90	1577.70	1639.80	1700.40	1731.30	1731.30	1731.30	1731.30	1731.30	1731.30	1731.30	1731.30
Jan-98	1227.60	1336.20	1401.00	1462.20	1558.20	1621.80	1685.70	1748.10	1779.90	1779.90	1779.90	1779.90	1779.90	1779.90	1779.90	1779.90
Jan-99	1271.70	1384.20	1451.40	1514.70	1614.30	1680.30	1746.30	1811.10	1844.10	1844.10	1844.10	1844.10	1844.10	1844.10	1844.10	1844.10
Jan-00	1332.60	1450.50	1521.00	1587.30	1691.70	1761.00	1830.00	1898.10	1932.60	1932.60	1932.60	1932.60	1932.60	1932.60	1932.60	1932.60
Jul-00	1332.60	1494.00	1566.00	1640.40	1714.50	1789.50	1861.50	1936.20	1936.20	1936.20	1936.20	1936.20	1936.20	1936.20	1936.20	1936.20
Jan-01	1381.80	1549.20	1623.90	1701.00	1777.80	1855.80	1930.50	2007.90	2007.90	2007.90	2007.90	2007.90	2007.90	2007.90	2007.90	2007.90
Jul-01	1381.80	1549.20	1623.90	1701.00	1779.30	1888.50	1962.90	2040.30	2040.30	2040.30	2040.30	2040.30	2040.30	2040.30	2040.30	2040.30
Jan-02	1561.50	1665.30	1745.70	1828.50	1912.80	2030.10	2110.20	2193.30	2193.30	2193.30	2193.30	2193.30	2193.30	2193.30	2193.30	2193.30
Jan-03	1625.40	1733.70	1817.40	1903.50	2037.00	2151.90	2236.80	2283.30	2283.30	2283.30	2283.30	2283.30	2283.30	2283.30	2283.30	2283.30
Jan-04	1700.10	1813.50	1901.10	1991.10	2130.60	2250.90	2339.70	2367.90	2367.90	2367.90	2367.90	2367.90	2367.90	2367.90	2367.90	2367.90
Jan-05	1759.50	1877.10	1967.70	2060.70	2205.30	2329.80	2421.60	2450.70	2450.70	2450.70	2450.70	2450.70	2450.70	2450.70	2450.70	2450.70
Jan-06	1814.10	1935.30	2028.60	2124.60	2273.70	2402.10	2496.60	2526.60	2526.60	2526.60	2526.60	2526.60	2526.60	2526.60	2526.60	2526.60
Jan-07	1854.00	1977.90	2073.30	2171.40	2323.80	2454.90	2551.50	2582.10	2582.10	2582.10	2582.10	2582.10	2582.10	2582.10	2582.10	2582.10

Pay Grade E-5																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Apr-07	1854.00	1977.90	2073.30	2171.40	2323.80	2483.70	2613.90	2630.10	2630.10	2630.10	2630.10	2630.10	2630.10	2630.10	2630.10	2630.10
Jan-08	1993.50	2127.00	2229.60	2334.90	2499.00	2670.90	2811.00	2828.40	2828.40	2828.40	2828.40	2828.40	2828.40	2828.40	2828.40	2828.40
Jan-09	1993.50	2127.00	2229.60	2334.90	2499.00	2670.90	2811.00	2828.40	2828.40	2828.40	2828.40	2828.40	2828.40	2828.40	2828.40	2828.40
Jan-10	2061.30	2199.30	2305.50	2414.40	2583.90	2761.80	2906.70	2924.70	2924.70	2924.70	2924.70	2924.70	2924.70	2924.70	2924.70	2924.70
Jan-11	2090.10	2230.20	2337.90	2448.30	2620.20	2800.50	2947.50	2965.50	2965.50	2965.50	2965.50	2965.50	2965.50	2965.50	2965.50	2965.50
Jan-12	2123.40	2265.90	2375.40	2487.60	2662.20	2845.20	2994.60	3012.90	3012.90	3012.90	3012.90	3012.90	3012.90	3012.90	3012.90	3012.90
Jan-13	2159.40	2304.30	2415.90	2529.90	2707.50	2893.50	3045.60	3064.20	3064.20	3064.20	3064.20	3064.20	3064.20	3064.20	3064.20	3064.20
Jan-14	2181.00	2327.40	2440.20	2555.10	2734.50	2922.30	3076.20	3094.80	3094.80	3094.80	3094.80	3094.80	3094.80	3094.80	3094.80	3094.80
Jan-15	2202.90	2350.80	2464.50	2580.60	2761.80	2951.40	3107.10	3125.70	3125.70	3125.70	3125.70	3125.70	3125.70	3125.70	3125.70	3125.70

Pay Grade E-4																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-40	60.00	60.00	60.00	66.00	66.00	69.00	69.00	72.00	72.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00
Aug-41	70.00	70.00	70.00	76.00	76.00	79.00	79.00	82.00	82.00	85.00	85.00	85.00	85.00	85.00	85.00	85.00
Jun-42	78.00	78.00	81.90	81.90	85.80	85.80	89.70	93.60	93.60	97.50	101.40	105.30	109.20	109.20	113.10	117.00
Jul-46	100.00	100.00	105.00	105.00	110.00	110.00	115.00	120.00	120.00	125.00	130.00	135.00	140.00	140.00	145.00	150.00
Oct-49	117.60	124.95	124.95	132.30	139.65	147.00	154.35	161.70	169.05	176.40	191.10	191.10	191.10	191.10	191.10	191.10
May-52	122.30	129.95	129.95	137.59	145.24	152.88	160.52	168.17	175.81	183.46	198.74	198.74	198.74	198.74	198.74	198.74
Apr-55	122.30	140.40	140.40	159.90	167.70	179.40	187.20	190.00	202.80	210.60	218.40	218.40	218.40	218.40	218.40	218.40
Jun-58	122.30	150.00	160.00	170.00	180.00	190.00	190.00	190.00	190.00	190.00	190.00	190.00	190.00	190.00	190.00	190.00
Oct-63	122.30	180.00	190.00	205.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00

Pay Grade E-4																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Sep-64	122.30	184.50	194.70	210.00	220.50	220.50	220.50	220.50	220.50	220.50	220.50	220.50	220.50	220.50	220.50	220.50
Sep-65	165.50	204.90	216.00	233.10	244.80	244.80	244.80	244.80	244.80	244.80	244.80	244.80	244.80	244.80	244.80	244.80
Jul-66	168.60	211.50	222.90	240.60	252.60	252.60	252.60	252.60	252.60	252.60	252.60	252.60	252.60	252.60	252.60	252.60
Oct-67	177.90	223.20	235.50	254.10	266.70	266.70	266.70	266.70	266.70	266.70	266.70	266.70	266.70	266.70	266.70	266.70
Jul-68	190.20	238.50	251.70	271.50	285.00	285.00	285.00	285.00	285.00	285.00	285.00	285.00	285.00	285.00	285.00	285.00
Jul-69	214.20	268.50	283.50	305.70	321.00	321.00	321.00	321.00	321.00	321.00	321.00	321.00	321.00	321.00	321.00	321.00
Jan-70	231.60	290.10	306.60	330.60	347.10	347.10	347.10	347.10	347.10	347.10	347.10	347.10	347.10	347.10	347.10	347.10
Jan-71	249.90	312.90	330.90	356.70	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40
Nov-71	323.40	341.40	361.20	389.40	405.00	405.00	405.00	405.00	405.00	405.00	405.00	405.00	405.00	405.00	405.00	405.00
Jan-72	346.80	366.00	387.30	417.60	434.10	434.10	434.10	434.10	434.10	434.10	434.10	434.10	434.10	434.10	434.10	434.10
Oct-72	369.90	390.60	413.10	445.50	463.20	463.20	463.20	463.20	463.20	463.20	463.20	463.20	463.20	463.20	463.20	463.20
Oct-73	392.70	414.60	438.60	473.10	491.70	491.70	491.70	491.70	491.70	491.70	491.70	491.70	491.70	491.70	491.70	491.70
Oct-74	414.30	437.40	462.90	499.20	518.70	518.70	518.70	518.70	518.70	518.70	518.70	518.70	518.70	518.70	518.70	518.70
Oct-75	435.00	459.30	486.00	524.10	544.50	544.50	544.50	544.50	544.50	544.50	544.50	544.50	544.50	544.50	544.50	544.50
Oct-76	450.60	475.80	503.70	543.00	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30
Oct-77	478.50	505.20	534.90	576.60	599.40	599.40	599.40	599.40	599.40	599.40	599.40	599.40	599.40	599.40	599.40	599.40
Oct-78	504.90	533.10	564.30	608.40	632.40	632.40	632.40	632.40	632.40	632.40	632.40	632.40	632.40	632.40	632.40	632.40
Oct-79	540.30	570.60	603.90	651.00	676.80	676.80	676.80	676.80	676.80	676.80	676.80	676.80	676.80	676.80	676.80	676.80
Oct-80	603.60	637.50	674.70	727.20	756.00	756.00	756.00	756.00	756.00	756.00	756.00	756.00	756.00	756.00	756.00	756.00
Oct-81	682.20	720.30	762.30	821.70	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40
Oct-82	709.50	749.10	792.90	854.70	888.60	888.60	888.60	888.60	888.60	888.60	888.60	888.60	888.60	888.60	888.60	888.60
Jan-84	738.00	779.10	824.70	888.90	924.00	924.00	924.00	924.00	924.00	924.00	924.00	924.00	924.00	924.00	924.00	924.00
Jan-85	767.40	810.30	857.70	924.60	960.90	960.90	960.60	960.90	960.90	960.90	960.90	960.90	960.90	960.90	960.90	960.90
Oct-85	790.50	834.60	883.50	952.20	989.70	989.70	989.70	989.70	989.70	989.70	989.70	989.70	989.70	989.70	988.70	989.70
Jan-87	814.20	859.50	909.90	980.70	1019.40	1019.40	1019.40	1019.40	1019.40	1019.40	1019.40	1019.40	1019.40	1019.40	1019.40	1019.40

Pay Grade E-4																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-88	830.40	876.60	928.20	1000.20	1039.80	1039.80	1039.80	1039.80	1039.80	1039.80	1039.80	1039.80	1039.80	1039.80	1039.80	1039.80
Jan-89	864.30	912.60	966.30	1041.30	1082.40	1082.40	1082.40	1082.40	1082.40	1082.40	1082.40	1082.40	1082.40	1082.40	1082.40	1082.40
Jan-90	895.50	945.60	1001.10	1078.80	1121.40	1121.40	1121.40	1121.40	1121.40	1121.40	1121.40	1121.40	1121.40	1121.40	1121.40	1121.40
Jan-91	932.10	984.30	1042.20	1122.90	1167.30	1167.30	1167.30	1167.30	1167.30	1167.30	1167.30	1167.30	1167.30	1167.30	1167.30	1167.30
Jan-92	971.10	1025.70	1086.00	1170.00	1216.20	1216.20	1216.20	1216.20	1216.20	1216.20	1216.20	1216.20	1216.20	1216.20	1216.20	1216.20
Jan-93	1007.10	1063.80	1126.20	1213.20	1261.20	1261.20	1261.20	1261.20	1261.20	1261.20	1261.20	1261.20	1261.20	1261.20	1261.20	1261.20
Jan-94	1029.30	1087.20	1151.10	1239.90	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80
Jan-95	1056.00	1115.40	1181.10	1272.00	1322.40	1322.40	1322.40	1322.40	1322.40	1322.40	1322.40	1322.40	1322.40	1322.40	1322.40	1322.40
Jan-96	1081.20	1142.10	1209.30	1302.60	1354.20	1354.20	1354.20	1354.20	1354.20	1354.20	1354.20	1354.20	1354.20	1354.20	1354.20	1354.20
Jan-97	1113.60	1176.30	1245.60	1341.60	1394.70	1394.70	1394.70	1394.70	1394.70	1394.70	1394.70	1394.70	1394.70	1394.70	1394.70	1394.70
Jan-98	1144.80	1209.30	1280.40	1379.10	1433.70	1433.70	1433.70	1433.70	1433.70	1433.70	1433.70	1433.70	1433.70	1433.70	1433.70	1433.70
Jan-99	1185.90	1252.80	1326.60	1428.60	1485.30	1485.30	1485.30	1485.30	1485.30	1485.30	1485.30	1485.30	1485.30	1485.30	1485.30	1485.30
Jan-00	1242.90	1312.80	1390.20	1497.30	1556.70	1556.70	1556.70	1556.70	1556.70	1556.70	1556.70	1556.70	1556.70	1556.70	1556.70	1556.70
Jul-00	1242.90	1373.10	1447.20	1520.10	1593.90	1593.90	1593.90	1593.90	1593.90	1593.90	1593.90	1593.90	1593.90	1593.90	1593.90	1593.90
Jan-01	1288.80	1423.80	1500.60	1576.20	1653.00	1653.00	1653.00	1653.00	1653.00	1653.00	1653.00	1653.00	1653.00	1653.00	1653.00	1653.00
Jan-02	1443.60	1517.70	1599.60	1680.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30
Jan-03	1502.70	1579.80	1665.30	1749.30	1824.00	1824.00	1824.00	1824.00	1824.00	1824.00	1824.00	1824.00	1824.00	1824.00	1824.00	1824.00
Jan-04	1558.20	1638.30	1726.80	1814.10	1891.50	1891.50	1891.50	1891.50	1891.50	1891.50	1891.50	1891.50	1891.50	1891.50	1891.50	1891.50
Jan-05	1612.80	1695.60	1787.10	1877.70	1957.80	1957.80	1957.80	1957.80	1957.80	1957.80	1957.80	1957.80	1957.80	1957.80	1957.80	1957.80
Jan-06	1662.90	1748.10	1842.60	1935.90	2018.40	2018.40	2018.40	2018.40	2018.40	2018.40	2018.40	2018.40	2018.40	2018.40	2018.40	2018.40
Jan-07	1699.50	1786.50	1883.10	1978.50	2062.80	2062.80	2062.80	2062.80	2062.80	2062.80	2062.80	2062.80	2062.80	2062.80	2062.80	2062.80
Jan-08	1758.90	1848.90	1949.10	2047.80	2135.10	2135.10	2135.10	2135.10	2135.10	2135.10	2135.10	2135.10	2135.10	2135.10	2135.10	2135.10
Jan-09	1827.60	1920.90	2025.00	2127.60	2218.50	2218.50	2218.50	2218.50	2218.50	2218.50	2218.50	2218.50	2218.50	2218.50	2218.50	2218.50
Jan-10	1889.70	1986.30	2094.00	2199.90	2293.80	2293.80	2293.80	2293.80	2293.80	2293.80	2293.80	2293.80	2293.80	2293.80	2293.80	2293.80
Jan-11	1916.10	2014.20	2123.40	2230.80	2325.90	2325.90	2325.90	2325.90	2325.90	2325.90	2325.90	2325.90	2325.90	2325.90	2325.90	2325.90

Pay Grade E-4																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-12	1946.70	2046.30	2157.30	2266.50	2363.10	2363.10	2363.10	2363.10	2363.10	2363.10	2363.10	2363.10	2363.10	2363.10	2363.10	2363.10
Jan-13	1979.70	2081.10	2193.90	2304.90	2403.30	2403.30	2403.30	2403.30	2403.30	2403.30	2403.30	2403.30	2403.30	2403.30	2403.30	2403.30
Jan-14	1999.50	2101.80	2215.80	2328.00	2427.30	2427.30	2427.30	2427.30	2427.30	2427.30	2427.30	2427.30	2427.30	2427.30	2427.30	2427.30
Jan-15	2019.60	2122.80	2238.00	2351.40	2451.60	2451.60	2451.60	2451.60	2451.60	2451.60	2451.60	2451.60	2451.60	2451.60	2451.60	2451.60

Pay Grade E-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-40	54.00	54.00	54.00	59.40	59.40	62.10	62.10	64.80	64.80	67.50	67.50	67.50	67.50	67.50	67.50	67.50
Aug-41	64.00	64.00	64.00	69.40	69.40	72.10	72.10	74.80	74.80	77.50	77.50	77.50	77.50	77.50	77.50	77.50
Jun-42	66.00	66.00	69.30	69.30	72.60	72.60	75.90	79.20	79.20	82.50	85.80	89.10	92.40	92.40	95.70	99.00
Jul-46	90.00	90.00	94.50	94.50	99.00	99.00	103.50	108.00	108.00	112.50	117.00	121.50	126.00	126.00	130.50	135.00
Oct-49	95.55	102.90	102.90	110.25	117.60	124.95	132.30	139.65	147.00	147.00	147.00	147.00	147.00	147.00	147.00	147.00
May-52	99.37	107.02	107.02	114.66	122.30	129.95	137.59	145.24	152.88	152.88	152.88	152.88	152.88	152.88	152.88	152.88
Apr-55	99.37	117.00	117.00	132.60	140.40	148.20	156.00	159.90	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80
Jun-58	99.37	124.00	124.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00
Oct-63	99.37	145.00	155.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00
Sep-64	99.37	148.50	155.00	169.20	169.20	169.20	169.20	169.20	169.20	169.20	169.20	169.20	169.20	169.20	169.20	169.20
Sep-65	117.90	164.70	176.40	187.80	187.80	187.80	187.80	187.80	187.80	187.80	187.80	187.80	187.80	187.80	187.80	187.80
Jul-66	121.80	170.10	182.10	193.80	193.80	193.80	193.80	193.80	193.80	193.80	193.80	193.80	193.80	193.80	193.80	193.80
Oct-67	128.70	179.70	192.30	204.60	204.60	204.60	204.60	204.60	204.60	204.60	204.60	204.60	204.60	204.60	204.60	204.60
Jul-68	137.70	192.00	205.50	218.70	218.70	218.70	218.70	218.70	218.70	218.70	218.70	218.70	218.70	218.70	218.70	218.70

Pay Grade E-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jul-69	155.10	216.30	231.30	246.30	246.30	246.30	246.30	246.30	246.30	246.30	246.30	246.30	246.30	246.30	246.30	246.30
Jan-70	167.70	233.70	249.90	266.40	266.40	266.40	266.40	266.40	266.40	266.40	266.40	266.40	266.40	266.40	266.40	266.40
Jan-71	180.90	252.30	269.70	287.40	287.40	287.40	287.40	287.40	287.40	287.40	287.40	287.40	287.40	287.40	287.40	287.40
Nov-71	311.10	328.20	341.10	354.60	354.60	354.60	354.60	354.60	354.60	354.60	354.60	354.60	354.60	354.60	354.60	354.60
Jan-72	333.60	351.90	365.70	380.10	380.10	380.10	380.10	380.10	380.10	380.10	380.10	380.10	380.10	380.10	380.10	380.10
Oct-72	355.80	375.30	390.30	405.60	405.60	405.60	405.60	405.60	405.60	405.60	405.60	405.60	405.60	405.60	405.60	405.60
Oct-73	377.70	398.40	414.30	430.50	430.50	430.50	430.50	430.50	430.50	430.50	430.50	430.50	430.50	430.50	430.50	430.50
Oct-74	398.40	420.30	437.10	454.20	454.20	454.20	454.20	454.20	454.20	454.20	454.20	454.20	454.20	454.20	454.20	454.20
Oct-75	418.20	441.30	459.00	477.00	477.00	477.00	477.00	477.00	477.00	477.00	477.00	477.00	477.00	477.00	477.00	477.00
Oct-76	433.20	457.20	475.50	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40
Oct-77	460.20	485.40	504.90	525.00	525.00	525.00	525.00	525.00	525.00	525.00	525.00	525.00	525.00	525.00	525.00	525.00
Oct-78	485.40	512.10	532.80	553.80	553.80	553.80	553.80	553.80	553.80	553.80	553.80	553.80	553.80	553.80	553.80	553.80
Oct-79	519.60	548.10	570.30	592.80	592.80	592.80	592.80	592.80	592.80	592.80	592.80	592.80	592.80	592.80	592.80	592.80
Oct-80	580.50	612.30	636.90	662.10	662.10	662.10	662.10	662.10	662.10	662.10	662.10	662.10	662.10	662.10	662.10	662.10
Oct-81	642.60	677.70	705.00	732.90	732.90	732.90	732.90	732.90	732.90	732.90	732.90	732.90	732.90	732.90	732.90	732.90
Oct-82	668.40	704.70	733.20	762.30	762.30	762.30	762.30	762.30	762.30	762.30	762.30	762.30	762.30	762.30	762.30	762.30
Jan-84	695.10	732.90	762.60	792.90	792.90	792.90	792.90	792.90	792.90	792.90	792.90	792.90	792.90	792.90	792.90	792.90
Jan-85	723.00	762.30	793.20	824.70	824.70	824.70	824.70	824.70	824.70	824.70	824.70	824.70	824.70	824.70	824.70	824.70
Oct-85	744.60	785.10	816.90	849.30	849.30	849.30	849.30	849.30	849.30	849.30	849.30	849.30	849.30	849.30	849.30	849.30
Jan-87	766.80	808.80	841.50	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80
Jan-88	782.10	825.00	858.30	892.20	892.20	892.20	892.20	892.20	892.20	892.20	892.20	892.20	892.20	892.20	892.20	892.20
Jan-89	814.20	858.90	893.40	928.80	928.80	928.80	928.80	928.80	928.80	928.80	928.80	928.80	928.80	928.80	928.80	928.80
Jan-90	843.60	889.80	925.50	962.10	962.10	962.10	962.10	962.10	962.10	962.10	962.10	962.10	962.10	962.10	962.10	962.10
Jan-91	878.10	926.40	963.30	1001.40	1001.40	1001.40	1001.40	1001.40	1001.40	1001.40	1001.40	1001.40	1001.40	1001.40	1001.40	1001.40
Jan-92	915.00	965.40	1003.80	1043.40	1043.40	1043.40	1043.40	1043.40	1043.40	1043.40	1043.40	1043.40	1043.40	1043.40	1043.40	1043.40

Pay Grade E-3																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-93	948.90	1001.10	1041.00	1082.10	1082.10	1082.10	1082.10	1082.10	1082.10	1082.10	1082.10	1082.10	1082.10	1082.10	1082.10	1082.10
Jan-94	969.90	1023.00	1063.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80
Jan-95	995.10	1049.70	1091.40	1134.60	1134.60	1134.60	1134.60	1134.60	1134.60	1134.60	1134.60	1134.60	1134.60	1134.60	1134.60	1134.60
Jan-96	1019.10	1074.90	1117.50	1161.90	1161.90	1161.90	1161.90	1161.90	1161.90	1161.90	1161.90	1161.90	1161.90	1161.90	1161.90	1161.90
Jan-97	1049.70	1107.00	1151.10	1196.70	1196.70	1196.70	1196.70	1196.70	1196.70	1196.70	1196.70	1196.70	1196.70	1196.70	1196.70	1196.70
Jan-98	1079.10	1137.90	1183.20	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30	1230.30
Jan-99	1117.80	1179.00	1225.80	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70
Jan-00	1171.50	1235.70	1284.60	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90
Jul-00	1171.50	1260.60	1334.10	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90	1335.90
Jan-01	1214.70	1307.10	1383.60	1385.40	1385.40	1385.40	1385.40	1385.40	1385.40	1385.40	1385.40	1385.40	1385.40	1385.40	1385.40	1385.40
Jan-02	1303.50	1385.40	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50
Jan-03	1356.90	1442.10	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80	1528.80
Jan-04	1407.00	1495.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50	1585.50
Jan-05	1456.20	1547.70	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00	1641.00
Jan-06	1501.20	1595.70	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00	1692.00
Jan-07	1534.20	1630.80	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20	1729.20
Jan-08	1587.90	1687.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80	1789.80
Jan-09	1649.70	1753.50	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70	1859.70
Jan-10	1705.80	1813.20	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00	1923.00
Jan-11	1729.80	1838.70	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00	1950.00
Jan-12	1757.40	1868.10	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20	1981.20
Jan-13	1787.40	1899.90	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80	2014.80
Jan-14	1805.40	1918.80	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90	2034.90
Jan-15	1823.40	1938.00	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30	2055.30

Pay Grade E-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-40	36.00	36.00	36.00	39.60	39.60	41.40	41.40	42.30	43.20	45.00	45.00	45.00	45.00	45.00	45.00	45.00
Aug-41	46.00	46.00	46.00	49.60	49.60	51.40	51.40	53.20	53.20	55.00	55.00	55.00	55.00	55.00	55.00	55.00
Jun-42	54.00	54.00	56.70	56.70	59.40	59.40	62.10	64.80	64.80	67.50	70.20	72.90	75.60	75.60	78.30	81.00
Jul-46	80.00	80.00	84.00	84.00	88.00	88.00	92.00	96.00	96.00	100.00	104.00	108.00	112.00	112.00	116.00	120.00
Oct-49	82.50	90.00	90.00	97.50	105.00	112.50	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00
May-52	85.80	93.60	93.60	101.40	109.20	117.00	124.80	124.80	124.80	124.80	124.80	124.80	124.80	124.80	124.80	124.80
Apr-55	85.80	101.40	101.40	109.20	117.00	124.80	132.60	132.60	132.60	132.60	132.60	132.60	132.60	132.60	132.60	132.60
Jun-58	85.80	108.00	108.00	108.00	108.00	108.00	108.00	108.00	108.00	108.00	108.00	108.00	108.00	108.00	108.00	108.00
Oct-63	85.80	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00
Sep-64	85.80	123.00	123.00	123.00	123.00	123.00	123.00	123.00	123.00	123.00	123.00	123.00	123.00	123.00	123.00	123.00
Sep-65	97.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50	136.50
Jul-66	100.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00	141.00
Oct-67	106.20	148.80	148.80	148.80	148.80	148.80	148.80	148.80	148.80	148.80	148.80	148.80	148.80	148.80	148.80	148.80
Jul-68	113.40	159.00	159.00	159.00	159.00	159.00	159.00	159.00	159.00	159.00	159.00	159.00	159.00	159.00	159.00	159.00
Jul-69	127.80	179.10	179.10	179.10	179.10	179.10	179.10	179.10	179.10	179.10	179.10	179.10	179.10	179.10	179.10	179.10
Jan-70	138.30	193.50	193.50	193.50	193.50	193.50	193.50	193.50	193.50	193.50	193.50	193.50	193.50	193.50	193.50	193.50
Jan-71	149.10	208.80	208.80	208.80	208.80	208.80	208.80	208.80	208.80	208.80	208.80	208.80	208.80	208.80	208.80	208.80
Nov-71	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10	299.10
Jan-72	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70	320.70
Oct-72	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30	342.30
Oct-73	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30	363.30
Oct-74	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40	383.40
Oct-75	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60	402.60
Oct-76	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30
Oct-77	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10	443.10

Pay Grade E-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-78	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40
Oct-79	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10	500.10
Oct-80	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60	558.60
Oct-81	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30	618.30
Oct-82	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90	642.90
Jan-84	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70	668.70
Jan-85	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40	695.40
Oct-85	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40	716.40
Jan-87	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00	738.00
Jan-88	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70	752.70
Jan-89	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60	783.60
Jan-90	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80	811.80
Jan-91	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10	845.10
Jan-92	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50	880.50
Jan-93	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20	913.20
Jan-94	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30
Jan-95	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60	957.60
Jan-96	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70	980.70
Jan-97	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10	1010.10
Jan-98	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30	1038.30
Jan-99	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80	1075.80
Jan-00	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40	1127.40
Jan-01	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10	1169.10
Jan-02	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30
Jan-03	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00	1290.00

Pay Grade E-2																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jan-04	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70	1337.70
Jan-05	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50	1384.50
Jan-06	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40	1427.40
Jan-07	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90	1458.90
Jan-08	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90	1509.90
Jan-09	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70	1568.70
Jan-10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10	1622.10
Jan-11	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90	1644.90
Jan-12	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30	1671.30
Jan-13	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80	1699.80
Jan-14	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90	1716.90
Jan-15	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00	1734.00

Pay Grade E-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-40	30.00	30.00	30.00	33.00	33.00	34.50	34.50	36.00	36.00	37.50	37.50	37.50	37.50	37.50	37.50	37.50
Aug-41	40.00	40.00	40.00	43.00	43.00	44.50	44.50	46.00	46.00	47.50	47.50	47.50	47.50	47.50	47.50	47.50
Jun-42	50.00	50.00	52.50	52.50	55.00	55.00	57.50	60.00	60.00	62.50	65.00	67.50	70.00	70.00	72.50	75.00
Jul-46	75.00	75.00	78.75	78.75	82.50	82.50	86.25	90.00	90.00	93.75	97.50	101.25	105.00	105.00	108.75	112.50
Oct-49	80.00	87.50	87.50	95.00	95.00	95.00	95.00	95.00	95.00	95.00	95.00	95.00	95.00	95.00	95.00	95.00
May-52	83.20	91.00	91.00	98.80	98.80	98.80	98.80	98.80	98.80	98.80	98.80	98.80	98.80	98.80	98.80	98.80
Apr-55	83.20	98.80	98.80	106.60	106.60	106.60	106.60	106.60	106.60	106.60	106.60	106.60	106.60	106.60	106.60	106.60

Pay Grade E-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Jun-58	83.20	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00
Oct-63	83.20	110.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00
Sep-64	83.20	112.80	112.80	112.80	112.80	112.80	112.80	112.80	112.80	112.80	112.80	112.80	112.80	112.80	112.80	112.80
Sep-65	93.90	125.10	125.10	125.10	125.10	125.10	125.10	125.10	125.10	125.10	125.10	125.10	125.10	125.10	125.10	125.10
Jul-66	96.90	129.00	129.00	129.00	129.00	129.00	129.00	129.00	129.00	129.00	129.00	129.00	129.00	129.00	129.00	129.00
Oct-67	102.30	136.20	136.20	136.20	136.20	136.20	136.20	136.20	136.20	136.20	136.20	136.20	136.20	136.20	136.20	136.20
Jul-68	109.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50	145.50
Jul-69	123.30	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80	163.80
Jan-70	133.20	177.00	177.00	177.00	177.00	177.00	177.00	177.00	177.00	177.00	177.00	177.00	177.00	177.00	177.00	177.00
Jan-71	143.70	191.10	191.10	191.10	191.10	191.10	191.10	191.10	191.10	191.10	191.10	191.10	191.10	191.10	191.10	191.10
Nov-71	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50	268.50
Jan-72	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00	288.00
Oct-72	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20	307.20
Oct-73	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10	326.10
Oct-74	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10	344.10
Oct-75	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20	361.20
Oct-76	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40
Oct-77	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50	397.50
Oct-78	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40
Oct-79	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80	448.80
Oct-80	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30	501.30
Oct-81	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40	551.40
Oct-82	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60	573.60
Jan-84	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40	596.40
Jan-85	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40	620.40

Pay Grade E-1																
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**	**Over 12**	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 26**	**Over 30**
Oct-85	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00	639.00
Jan-87	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20	658.20
Jan-88	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40	671.40
Jan-89	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00	699.00
Jan-90	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20	724.20
Jan-91	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90	753.90
Jan-92	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70	785.70
Jan-93	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80	814.80
Jan-94	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80
Jan-95	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40	854.40
Jan-96	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80	874.80
Jan-97	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90
Jan-98	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10	926.10
Jan-99	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40	959.40
Jan-00	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60	1005.60
Jan-01	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80	1042.80
Jan-02	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50
Jan-03	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80	1150.80
Jan-04	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40	1193.40
Jan-05	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10	1235.10
Jan-06	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50	1273.50
Jan-07	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40	1301.40
Jan-08	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00	1347.00
Jan-09	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50	1399.50
Jan-10	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20	1447.20

Pay Grade E-1																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jan-11	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60	1467.60
Jan-12	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00	1491.00
Jan-13	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20	1516.20
Jan-14	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50	1531.50
Jan-15	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80	1546.80

Pay Grade E-1<4 months																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jan-84	573.60															
Oct-85	590.70															
Jan-87	608.40															
Jan-88	620.70															
Jan-89	646.20															
Jan-90	669.60															
Jan-91	697.20															
Jan-92	726.60															
Jan-93	753.60															
Jan-94	770.10															
Jan-95	790.20															
Jan-96	809.10															
Jan-97	833.40															
Jan-98	856.80															

Pay Grade E-1<4 months																
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 30
Jan-99	887.70															
Jan-00	930.30															
Jul-00	930.30															
Jan-01	964.80															
Jul-01	964.80															
Jan-02	1022.70															
Jan-03	1064.70															
Jan-04	1104.00															
Jan-05	1142.70															
Jan-06	1178.10															
Jan-07	1203.90															
Jan-08	1245.90															
Jan-09	1294.50															
Jan-10	1338.60															
Jan-11	1357.20															
Jan-12	1378.80															
Jan-13	1402.20															
Jan-14	1416.30															
Jan-15	1430.40															

Source: Data for 2009–15 based on information from U.S. Department of Defense, *Compensation Greenbooks*, http://militarypay.defense.gov/References/Greenbooks.aspx.

Chapter II.B.2.
Basic Allowance for Housing

Legislative Authority: 37 U.S.C. §§403 and 405(b).

Purpose: To provide a cash allowance to military personnel not provided with government quarters adequate for themselves and their dependents to enable such personnel to obtain civilian housing as a substitute.

Background: Section 101(25) of Title 37, United States Code, 37 U.S.C. §101(25), defines "regular military compensation," or "RMC," to include "basic pay, basic allowance for housing, basic allowance for subsistence; and federal tax advantage accruing to the aforementioned allowances because they are not subject to federal income tax."[1] Prior to the reorganization of housing allowances in 1998, variable housing allowances and overseas housing allowances were discussed in addition to basic allowance for quarters because they all were part of a housing-allowance program intended to defray or offset the housing costs that members of the armed forces incur when adequate, government-provided quarters are not available. This chapter discusses all three allowances because until 1998 Congress expressly required that any variable housing allowance or overseas housing allowance a member received be included along with the basic pay, basic allowance for subsistence, and basic allowance for quarters when computing the amount of the federal income tax advantage (see Chapter II.B.4., "Federal Income-Tax Advantage," below) to be imputed to the member in determining the member's overall level of "regular military compensation."[2]

Basic Allowance for Quarters (BAQ)

Since the founding of the United States, military officers normally have been furnished living accommodations without charge. Except for a comparatively short period when a so-called "salary" system was in effect, payment of a cash substitute has been authorized when quarters in kind were not available. Originally, entitlement to the commuted quarters allowance did not rest on specific legislative authority, but was instead based on Army and Navy regulations and indirectly sanctioned by Congress through appropriations for payment of the commutation.[3]

The commutation of quarters authorized by early Army regulations permitted officers serving where public housing was not available and housing could not be rented by the government to be reimbursed for

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[1] Although 37 U.S.C. §101(25) specifically refers to "station housing allowance" as being included within the "regular military compensation" or "RMC" construct, "station housing allowance" is commonly referred to as "overseas housing allowance," inasmuch as it may only be paid to "member[s] ... on duty outside of the United States". 37 U.S.C. §405(b). The term "overseas housing allowance" is used in this chapter to designate the "station housing allowance" authorized by 37 U.S.C. §405(b) and included within the "regular military compensation" construct in 37 U.S.C. §101(25).

[2] Historically, the two most venerable of the three allowances—basic allowance for quarters and overseas housing allowance—developed, as shown below, under separate lines of statutory authority. When the variable housing allowance program was first implemented, on the other hand, it was legislatively appended to the basic allowance for quarters provisions of Title 37, United States Code. For this reason, while it is easy to treat the basic allowance for quarters and overseas housing allowance as separate programs that are not particularly interrelated, it is more difficult to treat the basic allowance for quarters and variable housing allowance as separate and distinct. Nevertheless, for reasons of convenience, the three programs are discussed under separate headings below insofar as feasible.

[3] The Third Amendment to the Constitution of the United States is instructive in this regard. It provides that "No Soldier shall, in time of peace, be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law." Thus, to the extent the government does not provide quarters to a specific service member, no "house ... Owner" may be forced against his will to provide accommodations to the service member. One way of overcoming the reluctance of a "house ... Owner" to provide accommodations to a service member is for the service member to rent accommodations from the "house ... Owner." Obviously, a cash allowance from the government in lieu of government provision of quarters to a service member will assist the service member in renting accommodations on the open market.

actual expenses paid by them for housing and fuel. In the mid-1800s, regulations were adopted establishing adequacy standards for officer quarters by specifying the number of rooms to which officers of different grades were entitled. The number of rooms ranged from two for second lieutenants to 10 for lieutenant generals. When adequacy standards for officer quarters were adopted, the commuted quarters allowance changed from an actual expense basis to an amount calculated by multiplying the number of rooms authorized for the officer's grade by the average rental cost per room in the area in which the officer was stationed. The amount of the commuted allowance for heating fuel varied with the season of the year and the climate in the locality in which the officer was stationed.

Navy regulations did not follow either of the Army methods for determining commuted allowances for quarters and fuel. Instead, Navy officers not provided public housing while on shore duty were paid an additional amount equal to one-third of their pay as a commutation for quarters and fuel.

The Army and Navy Appropriation Acts for 1871 (Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870) and Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §§3–4, 16 Stat. 321, 330–33 (1870)) prescribed annual "pay" rates for officers of the Army and Navy, respectively, which rates, in the case of Army officers, were provided to be "in full of all commutation of quarters, fuel, forage, servants' wages and clothing, longevity rations, and all allowances of every name and nature whatsoever" [Army Appropriation Act of 1871, *id*., §24, 16 Stat. 320], and, in the case of Navy officers, were provided to be their "full and entire compensation" with "no additional allowance" being permitted "on any account whatever" [Navy Appropriation Act of 1871, *id*., §4, 16 Stat. 332].[4] While "commutation of quarters" was thus specifically prohibited for Army officers and "additional allowance[s]" were forbidden for Navy officers, both the Army and Navy appropriation acts of 1871 were interpreted to allow housing to be furnished in kind to officers. Indeed, the Army Appropriation Act specifically provided that, notwithstanding the prohibition on commutation payments, "fuel, quarters, and forage in kind may be furnished to officers" [Army Appropriation Act of 1871, *id*., §24, 16 Stat. 320]. In permitting housing to continue to be furnished in kind without charge to Army and Navy officers, the Army and Navy Appropriation Acts of 1871 obviously placed officers assigned to housing in a more favorable financial position than their contemporaries not assigned to quarters.

At least in part to remedy this disparity in treatment, the Act of June 18, 1878, ch. 263, §9, 20 Stat. 145, 151 (1878), removed the prohibition against quarters commutation payments to Army officers. The 1878 act—the first legislative provision that specifically authorized a cash quarters allowance—fixed the rate of the allowance at a uniform $10 per room per month.[5] The law did not specify the number of rooms different officers were entitled to; this continued to be governed by regulation. Nor did it authorize commutation for fuel. While the Act of June 18, 1878, ch. 263, *id*., in fact removed the prohibition on quarters commutations for Army officers, it did not affect the prohibition on quarters commutations for Navy officers. Rather, the prohibition against quarters commutations for Navy officers continued in effect until the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1004, 1007 (1899), provided general equality of treatment for Army and Navy officers—at least insofar as allowances were concerned.

In specifying the number of rooms different officers were entitled to under the Act of June 18, 1878, ch. 263, §9, 20 Stat. 145, 151 (1878), *supra*, Army regulations established room entitlements by grade. After adoption of the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1004, 1007 (1899), *supra*, the Army regulations that specified the number of rooms different officers were entitled to came to govern the number of rooms Navy officer were entitled to and hence commutation-of-quarters computations for Navy officers. The Act of March 2, 1907, ch. 2511, Pub. L. No. 59-170, 34 Stat. 1158, 1168–1169 (1907), effectively made permanent the Army regulations governing room entitlements while also authorizing commutation of heat and light for

[4] See also Revised Statutes §§1261, 1269, 1270, 1271, and 1272 (1878), concerning Army officers and Revised Statutes §§1556, 1558, 1578, and 1585 (1878), concerning Navy officers.
[5] The monthly rate per room was increased to $12 the following year.

Army officers—and hence for Navy officers as well by virtue of the 1899 allowance equivalency law—at varying rates depending on number of rooms, season of the year, and geographic area.

The payment of commutations for quarters, fuel, heat, and light authorized by regulation or statute before 1918 depended on whether an officer himself did or did not occupy government quarters. The dependency status of an officer was first introduced as an element in determining the right to and the amount of commutation pay as a temporary World War I measure in the Act of April 16, 1918, ch. 53, Pub. L. No. 65-131, 40 Stat. 530 (1918). This act authorized payment of commutation for quarters, heat, and light to Army officers in the field whose dependents were not occupying public quarters, the commutation being payable whether or not such officers were furnished field accommodations by the government. Since shipboard service was held to be the essential equivalent of service "in the field" for Army officers, Navy officers were also entitled to the commutation for dependents under the linkage mechanism of the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1004, 1007 (1899), discussed above. This World War I measure expired June 30, 1922.

The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §6, 42 Stat. 625, 628 (1922), substituted a rental allowance system for commutation of quarters, heat, and light. The base used to compute the rental allowance was the average monthly cost in the United States of renting one room. The act initially established the monthly value of a room at $20 and provided that this amount was to be adjusted annually by the President. The base amount was in fact adjusted downward between April 1, 1933, and April 1, 1936, to a low of $17 per room per month, but the Act of April 9, 1935, ch. 413, Pub. L. No. 74-29, §1, 49 Stat. 120, 125 (1935), stabilized it at the $20 rate, and this rate remained in effect until 1942. Dependency status was reflected in the number of rooms used to compute the rental allowance, an officer with dependents being authorized more rooms than an officer of the same pay status without dependents. As an example, a major in the fourth pay period (see Chapter II.B.1., "Basic Pay," above, concerning pay periods) with dependents was entitled to a rental allowance of $100 a month (five rooms), while a similarly situated officer without dependents was entitled to $60 a month (three rooms). In addition to establishing a rental allowance system, the 1922 act limited the total pay and allowances of a major general (and the Navy equivalent) to $9,700 annually; the total pay and allowances of a brigadier general to $7,500 annually; and the total pay and allowances for grades below brigadier general to $7,200 annually. If any officer's pay and allowances were such as to otherwise exceed these limits, the officer's rental allowance was reduced by the amount of the excess.

The Pay Readjustment Act of 1942, ch. 681, Pub. L. No. 77-607, §6, 56 Stat. 359, 361–62 (1942), though retaining the principle of providing a larger rental allowance to officers with dependents, changed the "number-of-rooms" system for calculating the allowance to a fixed monthly sum based on an affected officer's pay period and dependency status. The amount of the allowance ranged from a low of $45 a month for a second lieutenant without dependents upward to $120 a month for a general officer with dependents. Aside from differences in rates and nomenclature, the 1942 system closely resembled the system of basic allowance for quarters used until 1998.

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302, 63 Stat. 802, 812–13 (1942), replaced the "rental allowance" with the "basic allowance for quarters" (BAQ), which continued to exist until 1998. The Career Compensation Act initially established BAQ rates for each officer grade at levels estimated by the Advisory Commission on Service Pay (the so-called Hook Commission) to be equal to the maximum monthly rate at which 75 percent of the civilians in comparable income groupings could reasonably expect to find adequate bachelor or family housing.[6] Because BAQ rates were thus related to comparable income groupings and housing costs, and since military income varied with rank, and housing costs varied with marital status, the officer BAQ rates recommended by the Hook Commission and ultimately prescribed in the Career Compensation Act were graduated by pay grade, and the rates within each grade were further

[6] *Career Compensation for the Uniformed Services*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 14.

differentiated by dependency status.[7] For the purpose of specifying the amount of BAQ to which an officer was entitled, only two different dependency statuses were recognized—with dependents and without dependents.[8]

The officer BAQ rates established by the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302, 63 Stat. 802, 812–13 (1942), have been explicitly adjusted a number of times since 1949. They were increased 14 percent in 1952 to compensate for higher living costs. They were further increased January 1, 1963, to bring them up to the Federal Housing Administration (FHA) median for housing expenses of comparable income groups in the United States. After 1963, however, BAQ rates lagged behind the FHA standard as the general price level, including housing costs, and military income, especially the basic pay component, moved upward in succeeding years. In 1971, however, BAQ rates were increased again—this time to approximately 85 percent of the FHA median for nationwide housing expenses of comparable income groups. This increase was a compromise between the House of Representatives, which wanted a 100-percent FHA standard, and the Senate, which wanted no BAQ increase at all. Further adjustments occurred in 1974 and 1975, when all cash elements of regular military compensation, including BAQ,[9] were increased 5.5 percent in step with increases in General Schedule salaries of federal Civil Service employees. Subsequent increases have been made both legislatively and through use of the pay-adjustment mechanism incorporated in 37 U.S.C. §1009, as described more fully below.

Enlisted personnel, like officers, have normally been furnished living accommodations at government expense, or a cash substitute when such accommodations were not provided. The enlisted cash substitute was for many years authorized strictly as a commutation of quarters in kind. Entitlement to the commuted quarters allowance rested on regulations rather than any specific provision of law. Statutory authority for enlisted commutation payments first appeared in the Act of March 4, 1915 (Army Appropriations Act for 1916), ch. 143, Pub. L. No. 63-292, §1, 38 Stat. 1062, 1069 (1915), which authorized commutation of quarters at $15 per month and commutation of heat and light at varying rates. The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §11, 42 Stat. 625, 630 (1922), previously cited in connection with officer rental allowance entitlements, provided that enlisted men not furnished quarters or subsistence in kind were entitled to an allowance not to exceed $4 a day.

The entitlement of specific enlisted personnel to commutations and quarters allowances before 1940 turned on whether they did or did not occupy government quarters. The first legislative recognition that enlisted personnel in the three highest pay grades who had dependents were entitled to public quarters, or a cash allowance in lieu of quarters, appeared in the Act of October 17, 1940, ch. 899, Pub. L. No. 76-872, 54

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[7] See *Career Compensation for the Uniformed Services*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 12–15, generally.

[8] The provisions relating to quarters allowances for officers that were incorporated in the Career Compensation Act of 1949, ch. 681, *id*., derived from recommendations made to the Secretary of Defense, and thence to Congress, by the so-called Hook Commission, more formally known as the Advisory Commission on Service Pay, whose report and recommendations were delivered to the Secretary of Defense in December 1948. In the words of the Hook Commission:

A. Officer[s] and warrant officers should be granted allowances for quarters at all times, subject to the withholding of allowances when Government quarters are assigned ….

C. Allowances should be granted with due consideration for personnel who may reasonably be expected to have dependents accompany them. Accordingly, all officers [and] warrant officers ... in any branch should be authorized a higher allowance, if they have dependents.

See *Career Compensation for the Uniformed Services*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 12. (The rationale for distinguishing between officers with dependents and those without dependents was somewhat different from the rationale for distinguishing between enlisted personnel with dependents and those without dependents. See footnote 10 to this chapter, below.)

[9] See discussion of regular military compensation (RMC) in Chapter II.B.1., "Basic Pay," above.

Stat. 1205 (1940), and was subsequently given more formal, as well as more permanent, recognition in the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §10, 56 Stat. 359, 363–64 (1942).

The principle that all enlisted personnel should be entitled to public quarters, or a cash substitute, and the related principle that certain grades of enlisted personnel should be entitled to quarters adequate to house themselves and their dependents—or a cash substitute—were continued in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302, 63 Stat. 802, 812–13 (1949), the source of present BAQ authority. The Career Compensation Act, however, slightly expanded the category of enlisted personnel entitled to dependents' housing to include "career" members instead of just members in the three highest pay grades.[10] The act authorized payment of BAQ, at the rate of $45 a month regardless of grade, to all enlisted members without dependents when government quarters were not available.[11] The act also provided that, for BAQ purposes, members in pay grades E-1 through E-4 (fewer than seven years of service) were at all times to be considered as without dependents, regardless of actual dependency status.[12] Members in pay grades E-4 (seven or more years of service) through E-7 with dependents were entitled to BAQ at the rate of $67.50 per month when not assigned government quarters adequate for both themselves and their dependents. The provision requiring that junior enlisted personnel at all times be considered as without dependents stemmed from the prevailing view that such personnel made better servicemen, i.e., were less likely to create a "social problem,"[13] when not married. Consequently, a policy decision was made to structure quarters allowances so as to discourage such personnel from marrying.

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[10] Just as was the case with officer BAQ entitlements, the provisions relating to quarters allowances for enlisted personnel that were incorporated in the Career Compensation Act of 1949, ch. 681, *id*., also derived from recommendations made to the Secretary of Defense, and thence to Congress, by the Hook Commission. In the words of the Hook Commission:

Enlisted personnel should be granted separate allowances for quarters when Government quarters are not assigned. . . . Allowances should be granted with due consideration for personnel who may reasonably be expected to have dependents accompany them. Accordingly, all ... enlisted personnel of the first three pay grades [corresponding to present pay grades E-7 through E-5] and grade four [corresponding to present pay grade E-4] with 7 years' total service in any branch should be authorized a higher allowance, if they have dependents. Enlisted personnel of pay grade four with less than 7 years' total service in any branch and grades five through seven [corresponding to present pay grades E-3 through E-1] should receive the same allowance regardless of dependents.

. . .

. . . The Commission supports the principle of higher [quarters] allowances for officers with dependents and believes further that it should be expanded to career enlisted personnel who may reasonably be expected to have dependents with them.

See *Career Compensation for the Uniformed Services*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 12, 13. In effect, the Hook Commission's recommendations concerning quarters allowances for enlisted personnel amounted to a determination that personnel in pay grades five through seven (current pay grades E-3 through E-1) and personnel in pay grade four (current pay grade E-4) with less than seven years of service should not "reasonably be expected to have dependents with them." (For the Hook Commission's recommendations regarding officer BAQ entitlements, and how those recommendations differed from the commission's recommendations regarding enlisted BAQ entitlements, see footnote 8 to this chapter, above.)

[11] See, e.g., the table at Section 302(f) of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302(f), 63 Stat. 802, 813 (1949).

[12] Proviso to Section 302(a) of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302(a), 63 Stat. 802, 813 (1949).

[13] An example of the sort of "social problem" adverted to was cited in the hearings on the Career Compensation Act in the following terms: "When we started to move troops in 1940, had it not been for the Red Cross we would have had the worst scandal in history because of families left behind in distress by men who should not have families." See *Career Compensation for the Uniformed Services: Hearings of March 18, 1949, on H.R. 2553, before a subcommittee of the House Armed Services Committee*, 81st Cong., 1st sess., 1696 (1949) (statement of Major General John E. Duhlquist, USA).

With the coming of the Korean conflict, Reserve and National Guard enlisted personnel with families were in 1950 being involuntarily ordered to active duty, and it was anticipated that individuals with dependents might soon be inducted under the Selective Service System. The Dependents Assistance Act of 1950 (DAA), ch. 922, Pub. L. No. 81-771, §3, 64 Stat. 794, 795 (1950), was enacted to provide extra compensation to aid such personnel and their families and prevent financial hardship. The DAA "temporarily" substituted new enlisted BAQ rates in place of the "permanent" rates established in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302, 63 Stat. 802, 812–13 (1949), *supra*. For members with dependents, DAA rates were graduated by number of dependents, to a maximum of $85 a month for any member with three or more dependents. The act also suspended the provisions of the preexisting law that barred junior enlisted personnel with dependents from qualifying for dependent BAQ [*id*., §2, 64 Stat. 795]. The DAA continued the across-the-board $45 monthly BAQ rate for members without dependents. In order to receive BAQ under the DAA, an enlisted member with dependents had to effect a monthly "Class Q" allotment for the support of such dependents in the amount of his BAQ entitlement plus $80, $60, or $40, depending on pay grade [*id*., §4, 64 Stat. 795]. Although the DAA had an expiration date of April 30, 1953, it was extended six times, completely governed enlisted BAQ entitlements until January 1, 1963, and partially governed them until July 1, 1973, when it was finally allowed to expire. The rates established by the DAA were increased 14 percent in 1952 to compensate for higher living costs.

The Act of July 10, 1962, Pub. L. No. 87-531, §1, 76 Stat. 152 (1962), adjusted enlisted BAQ rates again and modified the enlisted BAQ system, effective January 1, 1963. This act increased permanent BAQ rates, that is, those established under the Career Compensation Act, for pay grades E-4 (more than four years of service) through E-9 to bring them generally up to the FHA median for housing expenses of comparable income groups in the United States. It also changed the within-grade differentials in enlisted BAQ rates from a graduated structure based on number of dependents to a structure based only on a with- or without-dependents determination, thus establishing essential parity between the BAQ entitlement status of enlisted members and officers. The BAQ rate for members in pay grades E-1 through E-4 (four years of service or less), whether with or without dependents, was left at the level established under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302(f), 63 Stat. 802, 813 (1949), namely, $45 a month. For the duration of the DAA, however, the 1962 Act, Pub. L. No. 87-531, *id*., substituted higher rates for the junior grades where the Career Compensation Act rates had not been raised. This increase in DAA rates amounted to approximately 8 percent. In short, the 1962 Act, Pub. L. No. 87-531, *id*., shifted the BAQ entitlements of pay grades E-4 (more than four years of service) through E-9 from the DAA to the Career Compensation Act, raised the latter rates to the FHA standard, kept the BAQ entitlements of pay grades E-1 through E-4 (four years of service or less) under the DAA, and raised DAA rates by 8 percent. This meant, among other things, that as of January 1, 1963, members in higher grades did not have to effect a Class Q allotment to qualify for dependents BAQ, but members in the lower grades were still required to allot not less than their monthly BAQ plus $40.

The Act of December 16, 1967, Pub. L. No. 90-207, §4, 81 Stat. 649, 654 (1967), raised BAQ rates by approximately 9 percent as of October 1, 1967, for members whose entitlements were based on the DAA—that is, for members in pay grades E-1 through E-4 (four years of service or less). The 9 percent represented the advance in the shelter component of the Consumer Price Index between January 1963 and November 1966.

The Act of September 28, 1971 (Military Selective Service Act of 1967 Amendments), Pub. L. No. 92-129, §§204 and 206, 85 Stat. 348, 359 (1971), increased BAQ rates authorized under both the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302, 63 Stat. 802, 812–13 (1949), and the Dependents Assistance Act of 1950 (DAA), ch. 922, Pub. L. No. 81-771, §3, 64 Stat. 794, 795 (1950), to approximately 85 percent of the FHA median for housing expenses of comparable income groups. It also changed within-grade differentials in enlisted DAA rates from a graduated structure based on number of dependents to a structure based only on a with-or-without-dependents determination. Thus, the 1971 act, Pub.

L. No. 92-129, *id*., placed officer BAQ, Career Compensation Act enlisted BAQ, and DAA enlisted BAQ on essentially the same basis.

When the DAA expired July 1, 1973, the BAQ entitlements that had existed under it were made permanent by moving them to the Career Compensation Act structure. No rate adjustment was involved; the DAA rates that had been authorized in 1971 were merely converted into Career Compensation Act rates. This conversion was effected by the Act of July 9, 1973, Pub. L. No. 93-64, §105, 87 Stat. 147, 148–49 (1973), which also repealed the provision of the Career Compensation Act—suspended for some 23 years—that had required junior enlisted personnel to be considered as without dependents at all times. The expiration of the DAA eliminated the Class Q allotment requirement for members in pay grades E-1 through E-4 (four years of service or less).

The Act of December 16, 1967, Pub. L. No. 90-207, §8, 81 Stat. 649, 654–55 (1967), provided that whenever the General Schedule of compensation for federal classified employees, so-called "civil servants," was increased, a "comparable increase" was to be effected in the three cash components of "regular military compensation" (RMC—see Chapter II.B., "Regular Military Compensation (RMC) and Basic Military Compensation (BMC)," and Chapter II.B.1., "Basic Pay," above) of uniformed services personnel. As the base for determining the "comparable increase required in military pay," RMC, which at that time consisted of basic pay, BAQ, BAS, and the federal tax advantage deriving from the nontaxable status of those allowances (see Chapter II.B.4., "Federal Income Tax Advantage," below),[14] had the effect of imputing an increase in all four of the RMC elements of military compensation each time a General Schedule increase occurred. However, since the entire increase was actually allocated to basic pay, the "increase" in the BAQ, BAS, and tax-advantage elements was implicit only. The Act of September 19, 1974, Pub. L. No. 93-419, §4, 88 Stat. 1152, 1152–1153 (1974), discontinued the method by which the entire increase in military compensation was incorporated in basic pay. Instead, raises were to be equally distributed among the three cash elements of RMC—that is, basic pay, BAQ, and BAS.[15] [16]

The Department of Defense Appropriation Authorization Act, 1977,[17] Pub. L. No. 94-361, §303(b), 90 Stat. 923, 925 (1976), permitted a further change in the method of distributing military pay increases. The act authorized the President to allocate future overall increases among the three cash elements of RMC on other than an equal percentage basis whenever it was determined that such action was "in the best interest of

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[14] RMC is currently defined as the sum of basic pay, housing allowance, basic allowance for subsistence, and the federal tax advantage deriving from the nontaxable status of all the allowances.

[15] See, e.g., S. Rep. No. 93-1132 (Committee on Armed Services), at 2, accompanying H.R. 15406, 93d Cong., 2d sess. (1974):

> [The bill] H.R. 15406 will retain the principle that military pay raises are to be linked to federal civilian pay increases but will change the method of allocating pay raises. Instead of putting all of each pay raise solely into basic pay, future increases will be allocated to the three cash elements of RMC—basic pay, Basic Allowance for Quarters and Basic Allowance for Subsistence.

[16] The Act of August 21, 1965, Pub. L. No. 89-132, §2, 79 Stat. 545, 546–47 (1965), adopted a special provision, codified at 37 U.S.C. §1008, requiring the President to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system. Pursuant to Section 2(a) of the act, *id*., as codified at 37 U.S.C. §1008(b), the first such review was to be undertaken "[w]henever the President considers it appropriate, but in no event later than January 1, 1967." In the House and Senate Reports on the bill, H.R. 9075, 89th Cong., 1st sess. (1965), the required presidential review was referred to as a "quadrennial review ... of military compensation." See H.R. Rep. No. 89-549 (Committee on Armed Services), at 1 and 50, and S. Rep. No. 89-544 (Committee on Armed Services), at 1, accompanying H.R. 9075, 89th Cong., 1st sess. (1965. The 10 reviews of military compensation that have been completed under the direction of 37 U.S.C. §1008(b) have been referred to, successively, as the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Quadrennial Review of Military Compensation, respectively. The First Quadrennial Review was convened in 1966, and the most recent to have been completed, the tenth, in 2008.

[17] In the late 1970s, Defense Department authorization acts bore this longer title.

the Government." See 37 U.S.C. §1009(c) as added by the Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §303(b), 90 Stat. 923, 925 (1976) (essentially, current 37 U.S.C. §1009(c)(1)). The 1977 Authorization Act provided, however, that the amount allocated to basic pay could not be less than 75 percent of the amount that would have been allocated on an equal percentage allocation basis. The purpose of providing for a "reallocation" of compensation increases among the three cash elements of RMC was to enable progressive adjustments to be made to the two basic-allowance elements so that these allowances would, over time, more nearly cover the costs of the items they had originally been intended to defray, as well as to provide for more adequate quarters and subsistence allowances in general. Under the act, the President was required to advise Congress regarding any planned reallocation at the earliest practicable time before the effective date of a military pay increase. Furthermore, all allocations of increases among the different cash elements of RMC were to be assessed in conjunction with the quadrennial reviews of military compensation required under 37 U.S.C. §1008(b), and a full report was to be made to Congress summarizing the objectives and results of those allocations.[18]

The 1977 Appropriation Authorization Act, Pub. L. No. 94-361, *id*., also permitted, but did not require, the President to provide for payment of partial BAQ to members without dependents not entitled to cash BAQ. See 37 U.S.C. §1009(d) as added by the Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §303(b), 90 Stat. 923, 925 (1976) (essentially, current 37 U.S.C. §1009(c)(2)). The act stipulated that any partial BAQ payment made under this authority should be an amount equal to the difference between (1) the amount by which BAQ was increased on the basis of reallocation and to which affected members would be entitled were they not on sea or field duty or living in government quarters and (2) the amount by which BAQ would have been increased had the pay raise been distributed among the three cash elements of RMC on an equal percentage basis.

The pay adjustment mechanism incorporated in 37 U.S.C. §1009 was suspended for fiscal year 1981 by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §801, 94 Stat. 1077, 1090–1091 (1980), in favor of an 11.7-percent across-the-board increase in basic pay, BAS, and BAQ. This increase was, however, explicitly made subject to the President's reallocation authority under 37 U.S.C. §1009(c)(1). The basic reason for the legislated increase in military compensation—including BAQ—was a general feeling that military pay had lagged behind civilian wages and that the comparability basis under which federal General Schedule civilian wages were adjusted may have limited applicability to military pay.[19]

In 1981 Congress again suspended the pay adjustment mechanism incorporated in 37 U.S.C. §1009 and further legislatively increased BAQ. In the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §101(b)(3), 95 Stat. 989, 992 (1981), BAQ rates were increased by 14.3 percent, with a similar increase in BAS, *id*., §101(b)(2), 95 Stat. 992, and a 10- to 17-percent increase in basic pay, depending on pay grade, *id*., §101(b)(1), 95 Stat. 989–91. The intent was to "restore, in current dollars, the relative relationship of military compensation to pay in the private sector that existed in 1972" when Congress adopted the "all-volunteer force" construct as the manning principle for the armed services.[20] In short, Congress felt it necessary to increase the three cash elements of RMC—namely, basic pay, BAS, and BAQ—to restore lost purchasing power and thereby to improve retention and achieve manning objectives in the armed services.[21]

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[18] See, e.g., S. Rep. No. 96-826 (Committee of Conference), at 121, and H.R. Rep. No. 96-1222 (Committee of Conference), at 95, accompanying H.R. 6974, 96th Cong., 2d sess. (1980). Also see, e.g., 126 Cong. Rec. 1643–1645 (1980) (126 Cong. Rec. S828–S830 (daily ed. February 4, 1980)) (remarks of Senator Matsunaga in debate on H.R. 5168, subsequently adopted, with amendments, as the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, 94 Stat. 1123 (1980)).

[19] See, e.g., H.R. Rep. No. 97-109 (Committee on Armed Services), at 1 and 4, accompanying H.R. 3380, and S. Rep. No. 97-146 (Committee on Armed Services), at 2 and 3, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[20] For a more detailed description of the reasons underlying adoption of the increase in all three such elements of RMC in the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §101(b)(3), 95 Stat. 989, 992 (1981), see discussion of that act in text accompanying footnotes 32 to 39 of Chapter II.B.1., "Basic Pay," above.

[21] See Executive Order 12387, 47 Fed. Reg. 44981 (October 8, 1982).

For fiscal year 1983, BAQ rates were adjusted under the pay-adjustment mechanism of 37 U.S.C. §1009,[22] but that mechanism was again suspended the next year by the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §901, 97 Stat. 614, 634–35 (1983), in favor of a 4 percent, legislatively mandated increase in the three "basic" elements of regular military compensation—namely, basic pay, basic allowance for quarters, and basic allowance for subsistence. While specifying a general 4-percent increase in the three "basic" elements of RMC, however, the 1984 Authorization Act specifically permitted the President to exercise his authority to redistribute part of the pay raise among those three elements, pursuant to the redistribution provisions of 37 U.S.C. §1009(c)(1) and (d)(1).

For fiscal year 1985, Congress specifically abandoned all adjustment mechanisms—whether legislative or Section 1009 mechanisms—in favor of new, restructured BAQ rates computed on the basis of housing costs actually experienced by personnel in different pay grades throughout the United States. This change was effected by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §602(a)(1), 98 Stat. 2492, 2533–2534 (1984).

The reasons underlying the adoption of the restructured rates were somewhat complex, having to do with the interrelationships between the basic allowance for quarters and the variable housing allowance. As discussed in more detail below, the variable housing allowance was established by the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §4, 94 Stat. 1123, 1125–1126 (1980), as an amendment to the basic allowance for quarters provisions of Title 37.[23] From the outset, the two programs were, and were intended to be, closely related; and this relationship led to the amendment of both programs. As stated by the Senate Armed Services Committee:

> The basic allowance for quarters and the variable housing allowance are the elements of military compensation designed to help members pay for their housing when the government does not provide quarters. The basic allowance for quarters (BAQ) is no longer directly tied to the cost of housing, either individually or across the uniformed services. The variable housing allowance (VHA) was designed as a means of defraying high housing costs experienced by those members who were assigned to high cost areas of the country. Under current law, the VHA is provided when the average housing cost of members of the same pay grade in a specific area exceeds 115 percent of the BAQ and is equal to the difference between that average housing cost and 115 percent of BAQ. However, since VHA is tied in law to the amount of BAQ, and since the rates of BAQ have not kept pace with the rise in housing costs, major program growth has occurred in VHA.
>
> In order to save money, Congress has imposed restraints on the rates of BAQ and VHA. These restraints have lessened the ability of VHA to serve its intended purpose, compensating those with high housing costs. The results of the combined restraints on BAQ and VHA have been to sever the relationship of housing compensation and housing costs and to force military members to absorb a higher and higher percentage of housing costs out of other compensation.
>
> The committee believes it is now appropriate to revise the structure of both BAQ and VHA, so that these combined elements will be directly tied to housing costs and so that each military member receiving VHA, regardless of grade or duty location, will be required to fund a proportionate share of their housing expenses out of other compensation.

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[22] See 37 U.S.C. §403 as in effect after enactment of the Military Personnel and Compensation Amendments of 1980, Public Law 96-343, §4, 94 Stat. 1123, 1125–1126 (1980), and before enactment of the Department of Defense Authorization Act, 1985, Public Law 98-525, §602(a)(1), 98 Stat. 2492, 2533–2534 (1984).

[23] S. Rep. No. 98-500 (Committee on Armed Services), at 205, accompanying S. 2723, 98th Cong., 2d sess. (1984). See H.R. Rep. No. 98-691 (Committee on Armed Services), at 256, accompanying H.R. 587, 98th Cong,, 2d sess. (1984), to the same effect. *cf*. H.R. Rep. No. 98-1080 (Committee of Conference), at 295, 98th Cong., 2d sess. (1984).

> Therefore, the committee recommends that the rates for basic allowance for quarters, effective on January 1, 1985, be set at 65 percent of national median housing costs with respect to each pay grade and that variable housing allowance be paid only where the local median cost of housing for a pay grade exceeds 80 percent of the national median housing costs for that pay grade. This arrangement, tying BAQ to national median housing costs, would be maintained by periodic revisions to the BAQ rates. It would also insure that no member would receive VHA unless that member were absorbing 15 percent of their housing costs from other compensation and that rate would be true for all personnel receiving VHA.[24]

In adopting the Senate proposal, Congress, in addition to setting new BAQ rates, removed authority for the variable housing allowance from 37 U.S.C. §403 and moved it to 37 U.S.C. §403a, with little in the way of substantive modification other than as indicated above. See discussion of the variable housing allowance below and the amendments effected by the 1985 Authorization Act. At the same time as it adopted new BAQ rates, Congress adopted a provision protecting any member of the armed forces from a cut in BAQ entitlement as a result of the adoption of the new rates. The new rates became effective January 1, 1985.

For fiscal year 1986, Congress, again bypassing the pay-adjustment mechanism of 37 U.S.C. §1009, legislated a 3-percent increase in each of the three "basic" elements of regular military compensation in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §601, 99 Stat. 583, 635–36 (1985).[25] The effective date of the increase was October 1, 1985.

Like the 1986 Defense Authorization Act, Pub. L. No. 99-145, *id*., the authorization acts for fiscal years 1987, 1988, 1989, 1990, and 1991 all bypassed the Section 1009 adjustment mechanism. In bypassing this adjustment mechanism, the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, Div. A: Department of Defense Authorization Act, 1987, §601(a) and (b), 100 Stat. 3816, 3873 (1986), incorporated a 3-percent increase in basic pay, basic allowance for subsistence, and basic allowance for quarters, effective January 1, 1987; the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §601(b) and (c), 101 Stat. 1019, 1092 (1987), as amended by the Act of December 22, 1987 (Continuing Appropriations Act for Fiscal Year 1988), Pub. L. No.100-202, §110(b), 101 Stat. 1329, 1329–1436 (1987), a 2-percent increase in basic pay, basic allowance for subsistence, and basic allowance for quarters, effective January 1, 1988; the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §601(b) and (c), 102 Stat. 1918, 1976 (1988), a 4.1-percent increase in basic pay and basic allowance for subsistence and a 7-percent increase in basic allowance for quarters, effective January 1, 1989; the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §601(b), 103 Stat. 1352, 1444 (1989), a 3.6-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1990; and the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §601(b), 104 Stat. 1485, 1575 (1990), a 4.1-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1991.

In connection with its consideration of the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, 101 Stat. 1019 (1987), Congress did attempt to increase basic allowance for quarters rates above the increases proposed for basic pay and basic allowance for subsistence, but that attempt was effectively defeated when the "budget summit agreement," memorialized in the Act of December 22, 1987 (Continuing Appropriations for Fiscal Year 1988), Pub. L. No. 100-202, §110(b), 101 Stat. 1329, 1329–1436 (1987), scaled back the proposed increase of 3 percent in basic pay and basic allowance for subsistence and the proposed increase of 7 percent in basic allowance for quarters, to 2 percent for all three cash elements of RMC. As the joint House–Senate Conference Committee that considered the 1988/1989 Defense Authorization Act noted with respect to the appropriate increase for BAQ:

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[24] In providing for a 3-percent increase to the "basic" elements of regular military compensation, Congress did not provide authority for the President to redistribute any of the pay increase pursuant to 37 U.S.C. §1009(c)(1) or (d)(1).
[25] H.R. Rep. No. 100-446 (Committee of Conference), at 641, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).

> The conferees note that, in 1985, basic allowance for quarters (BAQ) rates are [sic, were?] restructured so that they would cover 65 percent of national median housing costs in each pay grade. Since the 1985 restructuring, BAQ has lagged behind housing cost growth, causing BAQ to fall below the 65 percent standard. The conferees intend the six percent increase in BAQ to be a step toward restoring BAQ to the 65 percent standard.[26]

In connection with its consideration of the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, 102 Stat. 1918 (1988), the House Armed Services Committee again addressed the issue of the adequacy of BAQ in relationship to national median housing costs and VHA rates, as follows:

> In fiscal year 1988, as a part of the budget summit agreement, military personnel received only a two percent pay raise. The committee anticipates considerable budgetary pressure to reduce substantially the pay raise request for fiscal year 1989....
>
> Today, the nation's armed forces have the highest quality young men and women in history, representing a dramatic reversal of the dark days of the 1970's when recruiting and retention rates plummeted. Although several factors contributed to the turnaround, the large pay raises in October 1980 and 1981 played a paramount role. The committee believes that a competitive rate of pay remains important and is deeply concerned that the gap between private sector and military salaries, as measured by the Employment Cost Index (ECI), is widening. Currently, military pay lags 11 percent behind wages in the civilian economy. If this trend is not reversed, the nation's armed forces could again fall on hard times.
>
> The committee therefore recommends a four percent increase in basic pay and basic allowance for subsistence (BAS) and a seven percent increase in basic allowance for quarters (BAQ). The committee believes reallocation of a small fraction of the pay raise into the basic allowance for quarters is sensible because basic allowance for quarters continues to fall behind the soaring cost of housing in the civilian economy.
>
> In an effort to address the problem of inadequate reimbursement for housing costs for certain individuals, Congress in the 1985 Defense Authorization Act (Public Law 98-525 [§602(a)(1), 98 Sta. 2492, 2533-2534 (1984)]) restructured the basic allowance for quarters and variable housing allowance (VHA) programs, pegging the basic allowance for quarters to a percentage (65 percent) of national median housing costs. The service member was expected to absorb 15 percent of housing costs, at which point the variable housing allowance kicks in.
>
> The program envisioned that the Department of Defense would periodically seek to update the BAQ rates, in order to maintain the linkage with national median housing costs. This, however, has not occurred. Instead, basic allowance for quarters has been increased each year, along with and by the same percentage as the annual pay raise, but national housing costs have gone up faster than pay raises. The Department of Defense has attempted to address this problem through increased variable housing allowance. This year's budget proposes a 3.4 percent VHA increase. Unfortunately, due to budget constraints, variable housing allowance has been capped through the appropriations process for the past two years.
>
> The BAQ rates had declined to slightly over 59 percent of national median housing costs, instead of 65 percent. With the caps on variable housing allowance, service members are now absorbing over 22 percent of their housing costs, instead of the 15 percent envisioned when the program was restricted [sic, restructured?] by Public Law 98-525.

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[26] H.R. Rep. No. 100-563 (Committee on Armed Services), at 251–52, accompanying H.R. 4624, 100th Cong., 2d sess. (1988).

> In an attempt to address this problem, last year the fiscal 1988/1989 Defense Authorization Act (Public Law 100-180 [§601(b) and (c), 101 Stat. 1019, 1092 (1987)]) authorized a six percent increase in basic allowance for quarters, along with a three percent increase in basic pay. Both the pay raise and the BAQ increase were subsequently limited to two percent in compliance with the budget summit agreement.
>
> The seven percent increase [in basic allowance for quarters, as proposed in the House bill, H.R. 4264, 100th Congress, 2d Session (1988)] would raise basic allowance for quarters to 62 percent of national median housing costs and, hopefully, would constitute the first step of a return to the 65 percent level established in the 1985 Defense Authorization Act.[27]

In conference, after the Senate had proposed a flat, across-the-board increase of 4.3 percent in basic pay, basic allowance for quarters, and basic allowance for subsistence,[28] a 4.1-percent increase in basic pay and basic allowance for subsistence and a 7-percent increase in basic allowance for quarters were agreed upon, with the conferees noting:

> The 4.3 percent across the board [sic] military pay raise requested by the Administration was based on projected private sector wage growth as measured by the employment cost index (ECI). At the time the request was submitted, the projected ECI was 4.3 percent. The 4.3 percent pay raise request matched the projected ECI increase to keep the 11 percent gap between private sector pay increases and military pay increases from widening.
>
> The actual ECI has now been reported as 3.5 percent. Therefore, the projection on which the Administration's request was based is overstated by 0.8 of a percentage point. As a result, the conference agreement will actually close the gap between private sector and military wage growth by 0.6 of a percentage point, the first time the military pay raise will exceed the ECI since 1981.[29]

The Conference Committee did not specifically address the question of the appropriateness of a 7-percent increase in basic allowance for quarters, apparently accepting the reasoning of the House Committee on Armed Services as expounded in H.R. Rep. No. 100-563, quoted above *in extenso*.

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[27] See, e.g., S. Rep. No. 100-326 (Committee on Armed Services), at 92, accompanying S. 2355, 100th Cong., 2d sess. (1988).

[28] H.R. Rep. No. 100-753 (Committee of Conference), at 403, accompanying H.R. 4264, and H.R. Rep. No. 100-989 (Committee of Conference), at 404–5, accompanying H.R. 4481, 100th Cong., 2d sess. (1988).

[29] With respect to the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §601(b), 105 Stat. 1290, 1372 (1991), and the pay raise authorized for fiscal year 1992, see H.R. Rep. No. 102-60 (Committee on Armed Services), at 247, accompanying H.R. 2100, and S. Rep. No. 102-113 (Committee on Armed Services), at 221, accompanying S. 1507; *cf.* H.R. Rep. No. 102-311 (Committee of Conference), at 548, accompanying H.R. 2100, 102d Cong., 1st sess. (1991). With respect to the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §601(b), 106 Stat. 2315, 2420 (1992), and the pay raise authorized for fiscal year 1993, see H.R. Rep. No. 102-527 (Committee on Armed Services), at 243, accompanying H.R. 5006, and S. Rep. No. 102-352 (Committee on Armed Services), at 208, accompanying S. 3114; *cf.* H.R. Rep. No. 102-966 (Committee of Conference), at 712, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). With respect to the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §601(b), 107 Stat. 1547, 1677 (1993), and the pay raise authorized for fiscal year 1994, see H.R. Rep. No. 103-200 (Committee on Armed Services), at 293, accompanying H.R. 2401; S. Rep. No. 103-112 (Committee on Armed Services), at 151–52, accompanying S. 1298; and H.R. Rep. No. 103-357 (Committee of Conference), at 682, accompanying H.R. 2401, 103d Cong., 1st sess. (1993). With respect to the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §601(b), 108 Stat. 2663, 2779 (1994), and the pay raise authorized for fiscal year 1995, see H.R. Rep. No. 103-499 (Committee on Armed Services), at 601, accompanying H.R. 4301; S. Rep. No. 103-282 (Committee on Armed Services), at 193, accompanying S. 2182; and H.R. Rep. No. 103-701 (Committee of Conference), at 711, accompanying S. 2182, 103d Cong., 2d sess. (1994).

In contrast to the extensive concern expressed in deliberations on the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, 101 Stat. 1019 (1987), and the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, 102 Stat. 1918 (1988), over the level and adequacy of basic allowance for quarters in relation to the housing costs actually experienced by service members, military pay raises and concomitant increases in BAQ rates for fiscal years 1992 through 1995 (with the possible exception of the pay raise for fiscal year 1994) were treated as more of a routine affair. Like the pay raises stretching back to fiscal year 1983, the authorization acts for fiscal years 1992 through 1995 all bypassed the Section 1009 adjustment mechanism, although in most years the congressionally mandated rate of increase matched the figure that would have resulted from using that mechanism.[30]

The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §601(b), 105 Stat. 1290, 1372 (1991), provided for a 4.2-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1992; the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §601(b), 106 Stat. 2315, 2420 (1992), a 3.7-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1993; the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No.103-160, §601(b), 107 Stat. 1547, 1677 (1993), a 2.2-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1994; and the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §601(b), 108 Stat. 2663, 2779 (1994), a 2.6-percent increase in basic pay, basic allowance for quarters, and basic allowance for subsistence, effective January 1, 1995. Except for the pay raise for military personnel for fiscal year 1994, none of the deliberations that led to any of these adjustments dealt explicitly with either the level or adequacy of military pay in terms of attracting and retaining appropriate numbers of military personnel or with the skills necessary for a modern military force; nor was the question of the appropriate index to use in adjusting military pay rates from year to year raised.[31]

In consideration of pay raises for fiscal years 1992 through 1995, special attention went only to those for fiscal 1994 and 1995. In both cases, the attention that was given to military pay raises derived from budget proposals made by the Clinton administration. For fiscal year 1994, the Clinton administration had proposed a freeze on military pay, but neither the Senate nor the House chose to go along with the administration. The Senate in particular felt it would be inequitable to military personnel to freeze their pay while federal civilian employees would almost certainly get a pay raise. As the Senate noted:

> The committee recommends a provision ... that would authorize a 2.2 percent pay raise for military personnel on January 1, 1994. The administration proposed a pay freeze for federal civilian employees, including military personnel, in its budget request. Under current law, the normal pay raise would have been a 2.2 percent increase on January 1, 1994 [under the provisions of 37 U.S.C. §1009]. In testimony before the committee, Defense Department witnesses indicated that military personnel overwhelmingly oppose the pay freeze, but that they could justify the pay freeze as long as military personnel are not singled out to bear a disparate sacrifice.
>
> Although federal civilians would forego the normal January 1 pay raise just as military personnel would under the administration's pay freeze proposal, current law provides for a second component to federal civilian pay, a locality adjustment, to address pay disparities for different areas which takes effect on January 1, 1994. Locality payments are mandated by law for areas where the difference between federal and non-federal pay exceeds five percent. According to the Office of Management and Budget, because federal civilian pay lags private sector pay by over 25 percent in the aggregate, practically all civilian white collar workers would receive a locality pay increase.

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[30] Robert L. Goldich, "Military Pay and Benefits: Key Questions and Answers," *CRS Issue Brief for Congress*, December 27, 2001, 6.

[31] S. Rep. No. 103-112 (Committee on Armed Services), at 151–52, accompanying S. 1298, 103d Cong., 1st sess. (1993).

> The administration has requested in its budget that the locality pay adjustment be delayed for one year to January 1, 1995. This would require legislative action. At the time of this report, the House [Budget] Reconciliation bill contains a provision that would delay the implementation of federal civilian locality pay by six months to July 1, 1994. The Senate Reconciliation bill contains no provision on federal civilian locality pay. Therefore, the committee assumes that civilian locality pay will be implemented on January 1, 1994 as provided for under current law or by July 1, 1994 as provided for in the House bill.
>
> The committee also notes that under the pay freeze recommended by the administration, the comparability gap between private sector pay as measured by the employment cost index and military pay would widen to 14.5 percent. This would be the largest gap since the Congress equalized private sector and military pay by authorizing a 14.3 percent military pay raise for October 1, 1981 [in the Uniformed Services Pay Act of 1981, Public Law 97-60, 95 Stat. 989 (1981)].
>
> The committee further notes that military personnel are operating at a higher tempo as our military downsizes. While the state of personnel readiness is high, there are signs of strain, such as the decline in the propensity of youth to serve in the military, and persistent shortages in certain skills that are also in demand in the private sector.
>
> In view of the foregoing, the committee believes that it would be fair and prudent to provide a pay raise for military personnel.[32]

In recommending its own version of a pay raise for military personnel for fiscal year 1994, the House Committee on Armed Services noted:

> The budget proposed a freeze on military pay during fiscal year 1994. The committee has identified offsets elsewhere within the defense budget request for fiscal year 1994 sufficient to fund the full 2.2 percent pay raise authorized under current law.
>
> The committee, therefore, recommends a 2.2 percent increase in basic pay, basic allowance for quarters and basic allowance for subsistence, for military personnel.[33]

For fiscal year 1995, the Clinton administration proposed a 1.6-percent military pay raise, one percentage point less than the 2.6-percent pay raise that would have been automatically authorized under the pay-adjustment mechanism of 37 U.S.C. §1009. Noting that it had "identified offsets elsewhere within the defense budget request" made by the Clinton administration, the House Armed Services Committee recommended the full 2.6-percent increase,[34] and the Senate Armed Services Committee agreed.[35] President Clinton approved the 2.6-percent military pay raise incorporated in the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §601(b), 108 Stat. 2663, 2779 (1994), on October 5, 1994.

The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §601(c), 110 Stat. 186, 356 (1996), provided a 5.2-percent increase in basic allowance for quarters while at the same time

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[32] H.R. Rep. No. 103-200 (Committee on Armed Services), at 293, accompanying H.R. 2401, 103d Cong., 1st sess. (1993).

[33] H.R. Rep. No. 103-499 (Committee on Armed Services), at 249, accompanying H.R. 4301, 103d Cong., 2d sess. (1994).

[34] S. Rep. No. 103-282 (Committee on Armed Services), at 193, and H.R. Rep. No. 103-701 (Committee of Conference), at 711, accompanying S. 2182, 103d Cong., 2d sess. (1994).

[35] H.R. Rep. No. 104-131 (Committee on National Security), at 229, accompanying H.R. 1530, 104th Cong., 1st sess. (1995). See S. Rep. No. 104-112 (Committee on Armed Services), at 253, accompanying S. 1026, 104th Cong., 1st sess. (1995); H.R. Rep. No. 104-406 (Committee of Conference), at 813, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); and H.R. Rep. No. 104-450 (Committee of Conference), at 803, accompanying S. 1124, 104th Cong., 2d sess. (1996).

providing a 2.4-percent increase in basic pay and basic allowance for subsistence. In explanation of the increase, the House Committee on National Security noted:

> This section [Section 601 of H.R. 1530, 104th Congress, 1st Session (1995)] would provide a 2.4 percent military pay raise as proposed in the President's budget. The committee has reservations about this level of raise because it would institutionally sanction a one-half of one percent lower level of increase than is expected within the private sector. The committee expects the ongoing Eighth Quadrennial Review of Military Compensation (QRMC) to evaluate the importance of the cumulative gap that exists between military and private sector pay levels and to reassess the process for determining the level of pay increases. The committee looks forward to receiving the recommendations of the QRMC for changes that will protect readiness and the ability of the armed services to recruit and retain quality personnel.
>
> The committee notes that the President's budget request included a provision designed to incrementally reduce the out-of-pocket housing costs for service members, but that the proposal is inadequately funded to achieve the intended level of benefit. Accordingly, section 601 would provide a 5.2 percent increase in the basic allowance for quarters which will fully fund the initiative to achieve the President's original objective to reduce out-of-pocket housing costs for service members to 19.5 percent.[36]

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[36] The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186 (1996), made two other notable changes to the BAQ program effective July 1, 1996. First, Section 603 of the 1996 Authorization Act, Pub. L. No. 104-106, *id*., §603, 110 Stat. 357–58, provided that unmarried personnel in pay grade E-6 who are assigned to "quarters ... that do not meet the minimum adequacy standards established by the Department of Defense" for that pay grade may elect not to occupy those quarters and instead receive basic allowance for quarters. Before enactment of this provision, personnel in pay grade E-7 and above without dependents were permitted to elect not to occupy public quarters independently of whether those quarters were "adequate" or not. Under the subject amendment, personnel in pay grade E-6 without dependents are permitted to elect not to occupy public quarters to which they would otherwise have been assigned, but only if those quarters are not "adequate" for members in that pay grade. In support of extending BAQ entitlement to unmarried service members in pay grade E-6, the Senate Armed Services Committee noted:

> The committee recommends a provision that would authorize payment of the basic allowance for quarters (BAQ) and variable housing allowance (VHA) (and overseas housing allowance (OHA) if assigned overseas) to single E-6 and above personnel assigned to quarters which do not meet minimum adequacy standards established by the Department of Defense. The committee believes that personnel in the career force should have the option of electing not to live in inadequate bachelor quarters.

See S. Rep. No. 104-112 (Committee on Armed Services), at 253, accompanying S. 1026, 104th Cong., 1st sess. (1995); *cf*. H.R. Rep. No. 104-406 (Committee of Conference), at 814, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 804, accompanying S. 1124, 104th Cong., 2d sess. (1996).

Second, Section 604 of the 1996 Authorization Act, Pub. L. No. 104-106, *id*., §604, 110 Stat. 358, extended entitlement to BAQ to unmarried service members in pay grade E-6 assigned to sea duty. Before enactment of this amendment to the BAQ program, only unmarried service members in pay grade E-7 and above who were assigned to sea duty were entitled to BAQ. In support of extending BAQ entitlement to unmarried service members in pay grade E-6 assigned to sea duty, the Senate Armed Services Committee focused most heavily on equality of treatment as between members of different services:

> The committee recommends a provision that would authorize payment of the basic allowance for quarters (BAQ) and variable housing allowance (VHA) (and overseas housing allowance (OHA) if assigned to a ship home-ported overseas) to single E-6 Navy personnel assigned to shipboard sea duty. Current law only permits single E-7 Navy personnel to receive BAQ, VHA and OHA (if applicable) while assigned to shipboard sea duty. The other military services already have similar BAQ/VHA/ OHA authority.

See S. Rep. No. 104-112 (Committee on Armed Services), at 253–54, accompanying S. 1026, 104th Cong., 1st sess. (1995). *Cf*. H.R. Rep. No. 104-131 (Committee on National Security), at 230, accompanying H.R. 1530, 104th Cong.,

The pay raise, including the increase in basic allowance for quarters, was approved by the President on February 12, 1996, with retroactive effect to January 1, 1996.[37]

Thus, while Congress had indicated in connection with its consideration of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984), cited above, an intention to frequently adjust BAQ rates for changes in national median housing costs in order to maintain the relationship established by that act between BAQ and VHA, on the one hand, and between BAQ and national median housing costs, on the other hand, as explained above, the only adjustments actually made to BAQ rates for that purpose were made by the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §601(c), 102 Stat. 1918, 1976 (1988), which increased BAQ rates by 7 percent, and by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §601(c), 110 Stat. 186, 356 (1996), which provided a 5.2-percent increase in basic allowance for quarters. While the latter increase narrowed the preexisting gap to some extent, during most of the preceding 10 years BAQ rates had continued to fall behind increases in housing costs, and service members had, on Congress's own reasoning,[38] been required to absorb more and more of the difference between the amount of the housing allowance with which they had been provided and the housing costs they actually experience out of their own pockets.

Selected Conditions Relating to the Basic Housing Entitlement

In general, the entitlement of any member of the armed forces to the basic housing allowance depends on whether the member is assigned to public housing that is both "appropriate" and "adequate" for the member and his or her dependents, if any. Subject to a number of exceptions highlighted below, if a member is assigned to adequate and appropriate housing, there is no entitlement to a housing allowance; if not, there is. The basic provision restricting entitlement to the basic housing allowance is set out at 37 U.S.C. §403(e)(1) (prior to 1998, §403(b)(1)):

> Except as otherwise provided by law, a member of the uniformed services who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade, rank, or rating and adequate for himself and his dependents, if with dependents, is not entitled to basic allowance for housing.

Under this provision, a member who is assigned to public quarters that are both appropriate and adequate for the member and his dependents, if any, is not entitled to a housing allowance. The major exception to this general rule is that members without dependents who are in pay grades above E-6, i.e., enlisted members in pay grades E-7, E-8, and E-9, as well as all warrant and commissioned officers, may elect, under 37 U.S.C. §403(e)(2) (prior to 1998, §403(b)(1)), not to occupy quarters to which they have been assigned, even though those quarters are both appropriate and adequate for them, and instead to receive a basic allowance for housing. Questions regarding the entitlement of members of the armed forces without dependents to basic allowance for housing when they are assigned to field or sea duty are dealt with at 37 U.S.C. §403(f)(1) and §403(f)(2), respectively (prior to 1998, §403(c)(1) and (2)). In addition, under the provisions of 10 U.S.C. §2830, a member of the armed forces with dependents may choose to occupy substandard family housing without losing entitlement to basic housing allowance, providing that a charge in the amount of the "fair rental value" of the housing, not to exceed 75 percent of the member's BAH

1st sess. (1995); H.R. Rep. No. 104-406 (Committee of Conference), at 814, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); and H.R. Rep. No. 104-450 (Committee of Conference), at 804, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[37] See S. Rep. No. 98-500 (Committee on Armed Services), at 205, accompanying S. 2773, 98th Cong., 2d sess. (1984), quoted in text accompanying footnote 23 of this chapter, above, and H.R. Rep. No. 104-131 (Committee on National Security), at 229, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), quoted in text accompanying footnote 34, above.

[38] Part II of the schedule attached to Executive Order 12990 of February 29, 1996, 66 Fed. Reg. 8467, 8470 (March 5, 1996), set out as a note under 5 U.S.C.A. §5332 and 37 U.S.C.A. §1009; see Section 1 of Executive Order 12990, *id*., 61 Fed. Reg. 8467.

entitlement, may be made. For members occupying substandard family housing under the provisions of 10 U.S.C. §2830, the difference between a member's entitlement and the "fair rental value" of the housing occupied is sometimes referred to as the member's "substandard housing allowance."

Under 37 U.S.C. §403(l) as added by the Act of December 28, 1985, Pub. L. No. 99-227, §1, 99 Stat. 1745 (1985), and amended by the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §604, 108 Stat. 2663, 2779 (1994), the survivors of a member of the armed forces who died in the line of duty are entitled, if in assigned quarters at the time of the member's death, to remain in those quarters without charge for 180 days following the member's death. Prior to changes in the law in 1998, if the decedent was receiving a basic allowance for quarters, variable housing allowance, or overseas housing allowance at the time of death, a survivor was entitled to a continuation of the decedent's entitlement for 180 days following the member's death. Beginning in 1998, this entitlement pertained to survivors of deceased members who had been receiving a basic allowance for housing for either domestic or overseas duty (see subsection on "Basic Allowance for Housing," below). The provision for 180 days to remain in assigned quarters or to receive a housing allowance was temporarily changed to 365 days by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief of 2005, Pub. L. No. 109-13, §1022(a), 119 Stat. 251 (2005), effective May 11, 2005. The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136 (2006), made the change from 180 to 365 days permanent.

Variable Housing Allowance

In the 1970s, housing costs for members assigned in the United States began to diverge significantly according to region. Because the BAQ was an invariable allowance, the out-of-pocket housing costs of members assigned in high-cost regions began to increase. Reportedly, such costs caused some members to refuse assignment in high-cost regions. To address the inequality of out-of-pocket costs that had crept into the housing allowance system, the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §4, 94 Stat. 1123, 1125–1126 (1980) added a "variable housing allowance program."[39]

The variable housing allowance, which was a very significant change in the structure of housing allowances, entitled a member of the uniformed services who was eligible to receive BAQ to the new variable housing allowance whenever assigned to duty in any part of the United States that was a "high housing cost area with respect to such member." The only exceptions were duty stations in Alaska and Hawaii, where the overseas housing allowance program then applied.[40] [See former 37 U.S.C. §403(a)(2)(A), as added by §4(a)(1)(B) of the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, *id*. and "Overseas Housing Allowance," below.] A given area was a "high housing cost area" with respect to a particular member whenever the average monthly cost of housing in the area for members serving in the same pay grade exceeded 115 percent of the member's BAQ entitlement. [See former 37 U.S.C. §403(a)(2)(C), as added by §4(a)(1)(B) of the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, *id*.] The amount of the allowance to which any given member was entitled was measured by the difference between the average monthly housing costs for members in the member's pay grade and 115 percent of the BAQ the member received. [See former 37 U.S.C. §403(a)(2)(B), as added by §4(a)(1)(B) of the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, *id*.] The allowance also was payable to members assigned to unaccompanied tours of duty outside the United States whose dependents lived in "high cost areas" in the United States.

As previously indicated, the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §602, 98 Stat. 2492, 2534–2537 (1984), substantially amended the variable housing allowance in order to better enable the program to serve the purposes for which it had originally been intended, namely, "assisting service members [to] defray housing expenses in high cost areas."[41] At the same time as authority for the variable housing allowance was removed from 37 U.S.C. §403, where it formerly resided, and was transferred

[39] See discussion in "Overseas Housing Allowance," below.
[40] H.R. Rep. No. 98-691 (Committee on Armed Services), at 256, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).
[41] See footnotes 22 and 23 together with accompanying text to this chapter, above.

to new 37 U.S.C. §403a, the basis for determining the amount of the allowance payable was changed. Under the revised program, the amount of the variable housing allowance to which a member is entitled is measured by the difference between the median monthly cost of housing in the "high-cost" area in question for members in the member's pay grade and 80 percent of the median monthly costs of housing in the United States for members in the same pay grade. Since the basic allowance for quarters program was also amended by the 1985 Authorization Act to set BAQ rates at 65 percent of nationwide median monthly housing costs of members in the same pay grade,[42] a member was effectively required to absorb the difference between 80 percent of median nationwide monthly housing costs for members in the same pay grade and 65 percent of such costs before becoming entitled to any variable housing allowance. Congress's stated reasons for adopting this amendment to the variable housing allowance are set out in the text accompanying footnotes 21 and 22 to this chapter, above.

In addition to changing the basis for determining when an area is a high-cost area for a particular member, and the basis for determining the amount of the allowance to which any member is entitled, the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §602, 98 Stat. 2492, 2534–2537 (1984), made the variable housing allowance applicable to members stationed in Alaska and Hawaii. Because the overseas housing allowance generally was more favorable, the amendatory language included a saved-pay provision to protect personnel from a drop in pay.[43] Transitional provisions enabled personnel receiving overseas housing allowance in Alaska and Hawaii on the effective date of the Defense Authorization Act for Fiscal Year 1985 to continue to receive that allowance, provided they did not receive variable housing allowance.[44]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985), also made several other changes to the variable housing allowance—many of which were designed to reduce or eliminate what were characterized as "windfalls" or "imperfections."[45] Section 602(c)(1) of the 1986 Authorization Act, 99 Stat. 636, amended 37 U.S.C. §403a(c)(1) to authorize separate variable housing allowance rates for members with dependents and for members without dependents. Before amendment, only one rate of VHA had been authorized for a particular "high housing cost area" and pay grade. Under the variable housing allowance program as amended, the monthly amount of variable housing allowance for a member of a uniformed service with respect to a given "high housing cost area" was measured as the difference between (A) the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade and with the same dependency status as that member, and (B) 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade and with the same dependency status as that member. [See 37 U.S.C. §403a(c)(1), as amended by Section 602(c)(1) of the 1986 Authorization Act.] As explained by the House Armed Services Committee, which had been responsible for the amendment in question, the provision authorizing separate rates of variable housing allowance for members with and without dependents had been

[42] For a discussion of the reasons underlying the switch from the overseas housing allowance program to the variable housing allowance program for personnel in Alaska and Hawaii, see discussion of overseas housing allowance in this chapter, below.

[43] See H.R. Rep. No. 99-81 (Committee on Armed Services), at 217, accompanying H.R. 1872, and S. Rep. No. 99-41 (Committee on Armed Services), at 190–91, accompanying S. 1029, 99th Cong., 1st sess. (1985).

[44] See, e.g., H.R. Rep. No. 99-81 (Committee on Armed Services), at 216–17, accompanying H.R. 1872, and S. Rep. No. 99-41 (Committee on Armed Services), at 191, accompanying S. 1029, 99th Cong., 1st sess. (1985). *Cf.*, S. Rep. No. 118 (Committee of Conference), at 426–27, and H.R. Rep. No. 99-235 (Committee of Conference), at 426–27, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[45] H.R. Rep. No. 99-81 (Committee on Armed Services), at 217, accompanying H.R. 1872, 99th Cong., 1st sess. (1985); *cf.* S. Rep. No. 118 (Committee of Conference), at 427, and H.R. Rep. No. 235 (Committee of Conference), at 427, accompanying S. 1160, 99th Cong., 1st sess. (1985).

intended to "correct another imperfection" in the variable housing allowance program as it had previously existed.[46]

Sections 602(a) and (b) of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., 99 Stat. 636, were both addressed to the question of variable housing allowance payments to personnel who were entitled to basic allowance for quarters at the "with-dependents" rate "solely by reason of the payment of child support by the member." Section 602(a) of the act added a new provision, codified at 37 U.S.C. §403a(a)(4), to deal with the case of a member not provided with government quarters who was entitled to basic allowance for quarters at the "with-dependents" rate because, but only because, the member was paying child support. In dealing with this case, Congress provided that such a member was entitled to variable housing allowance at the "without-dependents" rate. Section 602(b) of the act dealt with the slightly different case of a member assigned to government quarters who was entitled to basic allowance for quarters at the "with-dependents" rate because, but only because, the member was paying child support. In dealing with this case, Congress amended former 37 U.S.C. §403a(b) to provide that such a member was not entitled to variable housing allowance at all, whether at the "with-dependents" or "without-dependents" rate. Both changes were characterized as having been intended to eliminate "windfalls" that Congress had not intended in the first place.[47]

The fourth of the major changes to the variable housing allowance program effected by the 1986 Authorization Act, Pub. L. No. 99-145, *id*., was addressed to curing the problem of what was characterized by the Senate Armed Services Committee as "excess housing cost payments" under VHA.[48] Under the VHA program in effect before enactment of the 1986 Authorization Act, a member in a "high housing cost area" was entitled to both basic allowance for quarters and the variable housing allowance appropriate to the area in question and the member's grade independently of the amount of money the member was in fact spending on housing.[49] For members who had been able to obtain inexpensive housing or who otherwise happened to have relatively low housing costs for any of a number of possible reasons, the sum of their basic allowance for quarters and their variable housing allowance could exceed their actual housing costs, and it was this excess that was, for members fortunate enough to have low housing costs, for whatever combination of reasons, characterized as a "windfall."[50] In originally addressing the problem, the Senate bill (S. 1029, §503, 99th Cong., 1st sess. (1985)) proposed to totally eliminate the "excess" payments by providing, in essence, that the maximum amount of variable housing allowance a member could receive could not, when added to the member's basic allowance for quarters, exceed the member's "actual" housing costs. The Senate proposal was amended in conference to provide that, in the words of the Conference Committee:

> ... [T]he sum of a member's variable and basic housing allowances is permitted to exceed the member's housing costs by up to half the difference between the [member's]

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[46] H.R. No. 99-81 (Committee on Armed Services), at 216–17, accompanying H.R. 1827, 99th Cong., 1st sess. (1985); *cf.* S. Rep. No. 99-118 (Committee of Conference), at 427, and H.R. Rep. No. 99-235 (Committee of Conference), at 427, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[47] S. Rep. No. 99-41 (Committee on Armed Services), at 191, accompanying S. 1029, 99th Cong., 1st sess. (1985); *cf.*, S. Rep. No. 99-118 (Committee of Conference), at 426, and H.R. Rep. No. 99-235 (Committee of Conference), at 426, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[48] Under the VHA program in effect before enactment of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., members of the uniformed services were entitled to variable housing allowance at a rate that did not take into account dependency status. See text preceding and accompanying footnotes 44 and 45 to this chapter, above, Section 602(c)(1) of the 1986 Authorization Act, *id*., §602(c)(1), 99 Stat. 636, provided for dependency status to be taken into account in determining a member's variable housing allowance.

[49] S. Rep. No. 99-41 (Committee on Armed Services), at 191, accompanying S. 1029, 99th Cong., 1st sess. (1985). Also see S. Rep. No. 99-118 (Committee of Conference), at 426, and H.R. Rep. No. 99-235 (Committee of Conference), at 426, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[50] H.R. Rep. No. 99-235 (Committee of Conference), at 426, and S. Rep. No. 99-118 (Committee of Conference), at 426, accompanying S. 1160, 99th Cong., 2d sess. (1985).

> housing costs and the sum of the prescribed housing allowances for the member's pay grade and area.[51]

This change was made by Section 602(c)(2) of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., §602(c)(2), 99 Stat. 636–37. In fact, the amount, if any, by which the sum of a member's basic allowance for quarters and variable housing allowance was reduced came entirely out of the member's variable housing allowance. That is, no matter how low a particular member's "actual housing costs" were, the member never would receive less than full BAQ.[52] In addition, in determining a member's "housing costs," the House–Senate conferees indicated their intention that personnel administering the new provision include within the category of "housing costs" such housing-related items as utilities and maintenance costs.[53] Inclusion of these items within the category of "housing costs" that were to be taken into consideration in implementing the provision in question had the effect of limiting the reduction in variable housing allowance payments over what would otherwise occur.

A fifth change to the variable housing allowance program effected by Section 604(b) of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., §604(b), 99 Stat. 638, permitted VHA, together with BAQ, to be paid in advance. As indicated by the Senate Armed Services Committee, which was responsible for the advanced-payment authority:

> More and more military personnel who are not provided Government quarters are confronted with a requirement to pay large initial sums of money when renting or leasing private housing. In many areas, it is becoming customary to require that renters pay the first and last month's rent, along with a security deposit, at the time housing is obtained. For military personnel who have just completed a permanent change of station move, this requirement can present an almost insurmountable financial hurdle.
>
> There presently is no authority to pay either BAQ or VHA in advance. Such authority does exist for the payment of a station housing allowance under the rent-plus system outside the continental United States.
>
> The committee believes that authority to pay BAQ and VHA in advance could be used to help members meet the high financial demands often imposed upon them when renting or leasing private housing…. The committee expects that this authority will not be used routinely and that it will be limited to those cases where needed because of housing market costs.[54]

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[51] Just as is true in the case of a member whose housing costs are below the sum of the member's basic allowance for quarters and (unreduced) variable housing allowance, it could be argued that a member fortunate enough to have housing costs below the member's basic allowance for quarters entitlement was getting a "windfall" or an "excess housing allowance payment" of some form or other. Be that as it may, the amendment made to the variable housing allowance program by Section 602(c)(2) of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., §602(c)(2), 99 Stat. 636–37, did not address that question.

[52] For the purpose of computing a member's housing costs, the House–Senate conferees indicated their intention to permit statistical generalization with respect to housing costs other than rent or mortgage payments, such as utilities and maintenance. S. Rep. No. 99-118 (Committee of Conference), at 426, and H.R. Rep. No. 99-235 (Committee of Conference), at 426, accompanying S. 1160, 99th Cong., 1st sess. (1985). The conferees went on to indicate that they contemplated "use of the 80th percentile of surveyed utilities and maintenance costs for a pay grade in a variable housing allowance area" in computing a member's "housing costs" for purposes of reducing what would otherwise be a "windfall" to the member. I*d*.

[53] S. Rep. No. 99-41 (Committee on Armed Services), at 191–92, accompanying S. 1029, 99th Cong., 1st sess. (1985); *cf.*, S. Rep. No. 99-118 (Committee of Conference), at 427, and H.R. Rep. No. 99-235 (Committee of Conference), at 427, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[54] See text accompanying footnotes 44 and 45 of this chapter, above.

In 1993 Congress effectively amended part of the change to the VHA program made by Section 602 of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §602, 99 Stat. 583, 636 (1985). As previously indicated, in Section 602(b) of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., 99 Stat. 583, Congress provided that a member of the uniformed services assigned to public housing who was entitled to BAQ at the "with-dependents" rate solely because the member was paying child support would not be entitled to any form of VHA, whether at the "with-dependents" or "without-dependents" rate.[55] In Section 602(a) of the 1986 Authorization Act, *id*., however, Congress had provided that a member not assigned to government quarters who was entitled to BAQ at the "with-dependents" rate only because the member was paying child support would be entitled to VHA at the "without-dependents" rate. In Section 604 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §604, 107 Stat. 1547, 1679 (1993), Congress effectively determined to treat members on sea duty who elected not to occupy assigned public quarters and who were entitled to BAQ because they were in pay grade E-7 or above in the same way as members not assigned to public quarters at all.[56] Under the 1994 Authorization Act, a member in pay grade E-7 or above assigned to sea duty who elected not to occupy assigned quarters and was entitled to BAQ at the "with-dependents" rate solely by reason of paying child support was entitled to VHA at the "without-dependents" rate in the same way as a similarly circumstanced member not assigned to public quarters.[57]

The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §605(a), 110 Stat. 186, 358 (1996), further modified the variable housing allowance program by protecting against allowance reductions caused by declining housing costs in a member's area of assignment. Under the new provision, which was called individual rate protection, a member's allowance would not be reduced from year to year as long as the member retained uninterrupted eligibility for variable housing allowance payments in that area and the member's housing costs did not themselves actually decline.[58]

As originally adopted, the variable housing allowance program provided that a member of a reserve component called to active duty could not be paid variable housing allowance unless under a call or order specifying a period of active duty of 140 days or more. [See Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §4, 94 Stat. 1123, 1125–1126 (1980), originally codified at 37 U.S.C. §403 and subsequently recodified at 37 U.S.C. §403a(b)(3).][59] This result was temporarily modified by the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §1111(b), 104 Stat. 1485, 1635 (1990), which provided, *inter alia*, that members of reserve components called to active duty "in connection with Operation Desert Shield" would be entitled to variable housing allowance without regard to the 140-day limitation. Under amendments to the variable housing allowance program made by the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §603, 105 Stat. 1290, 1373 (1991), this temporary authority was made permanent by providing an exception for members of reserve components called to active duty "in support of a contingency operation."[60] [61] In addition to the changes noted

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[55] Under 37 U.S.C. §403(b), a member of a uniformed service without dependents who is in pay grade E-7 or above may elect not to occupy assigned public quarters and instead to receive the basic allowance for quarters. See current 37 U.S.C. §403(b)(2) as amended by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §603(a), 110 Stat. 186, 357 (1996).

[56] See, e.g., H.R. Rep. No. 103-200 (Committee on Armed Services), at 293, and H.R. Rep. No. 103-357 (Committee of Conference), at 682, both accompanying H.R. 2401, 103d Cong., 1st sess. (1993). Also see footnote 34 to this chapter, above.

[57] See H.R. Rep. No. 104-131 (Committee on National Security), at 230, accompanying H.R. 1530; S. Rep. No. 104-112 (Committee on Armed Services), at 254, accompanying S. 1026; H.R. Rep. No. 104-406 (Committee of Conference), at 814–15, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); and H.R. Rep. No. 104-450 (Committee of Conference), at 804–5, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[58] See footnote 38 to this chapter and accompanying text, above.

[59] See H.R. Rep. No. 102-60 (Committee on Armed Services), at 249, accompanying H.R. 2100, and S. Rep. No. 102-113 (Committee on Armed Services), at 226, accompanying S. 1507, 102d Cong., 1st sess. (1991).

[60] For the purposes of Title 37, United States Code, the term "contingency operation" is defined by reference to 10 U.S.C. §101, in particular §101(a)(13). See 37 U.S.C. §101(26), as added by the National Defense Authorization Act for Fiscal

above, the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §603, 105 Stat. 1290, 1373 (1991), made an additional provision to determine the amount of variable housing allowance that a member of a reserve component called to active duty is paid if not authorized transportation of household goods from the member's place of principal residence to the member's duty station. In that case, the member would be considered as assigned to duty at his place of principal residence. As a result, the member's VHA entitlement would be determined by reference to the place of principal residence rather than the duty station.[62]

Basic Allowance for Housing (BAH)

Because of concern about the inadequacy of housing allowances, in 1995 and 1996 Congress increased BAQ funding in an effort to reduce out-of-pocket housing costs. In conjunction with this measure, the Clinton administration announced a goal of reducing out-of-pocket housing expenditures to a maximum of 15 percent. However, in both 1995 and 1996 the apparent gains from these measures fell far short of expectations because of the reporting system on which the VHA system based its allotments. When members received larger BAQ sums, average spending on housing also grew, and thus so did the housing costs that members reported the following year. As larger BAQ budgets drove actual housing costs upward instead of reducing members' out-of-pocket costs, another solution was sought.

By 1997 housing-cost inflation, which was particularly serious in the 1980s, had driven the average out-of-pocket housing expense for members of the armed forces above 20 percent. In the National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1775 (1997), Congress responded to increasing expressions of dissatisfaction with the BAQ and VHA allotment systems. Pub. L. No. 105-85 included a revision of the formulas that determined housing allowances for members within and outside the United States, and a separation of increases in housing and subsistence rates from increases in basic pay rates. The initial separation of the increase rates for basic pay and housing allowances had occurred in 1996, for which year the National Defense Authorization Act, Pub. L. No. 104-106, 110 Stat. 186, 356, authorized a BAQ increase (5.2 percent) that was more than twice the basic pay increase (2.4 percent).

In FY 1998, the basic allowances for quarters and the variable allowance for housing within the United States were merged into a single sum, to be adjusted according to a member's grade, dependency

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Years 1992 and 1993, Pub. L. No. 102-190, §631(b), 105 Stat. 1290, 1380 (1991), and amended by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §1052(b)(2), 106 Stat. 2315, 2498 (1992), and the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §1182(c)(1), 107 Stat. 1547, 1772 (1993). As added by the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §631(a), 105 Stat. 1290, 1380 (1991), and thereafter amended, "contingency operation" is defined at 10 U.S.C. §101(a)(13) as follows:

The term "contingency operation" means a military operation that—

(A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) results in the call or order to, or retention on, active duty of members of the uniformed services under sections 688, 12301(a), 12302, 12304, 12305, or 12406 of this title, chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

See H.R. Rep. No. 102-60 (Committee on Armed Services), at 249, accompanying H.R. 2100; S. Rep. No. 102-113 (Committee on Armed Services), at 225, accompanying S. 1507; and H.R. Rep. No. 102-311 (Committee of Conference), at 551–52, accompanying H.R. 2100, 102d Cong., 1st sess. (1991).

[61] See H.R. Rep. No. 102-60 (Committee on Armed Services), at 247, accompanying H.R. 2100, and S. Rep. No. 102-113 (Committee on Armed Services), at 226, accompanying S. 1507, 102d Cong., 1st sess. (1991).

[62] See, e.g., H.R. Rep. No. 96-1233 (Committee of Conference), at 16–17, accompanying H.R. 5168, 96th Cong., 2d sess. (1980).

status, and location.[63] In subsequent years, the object of the reform was to provide market-based allowances consistent with the average lifestyle of civilians at job levels equivalent to the military ranks. In order to make allowances match more closely the local housing costs encountered by members living outside government-provided quarters, the 1998 legislation prescribed a new formula for computing a "basic allowance for housing" (BAH) that accounted for variations in local housing costs. This approach was an extension of the variable housing allowance (VHA) concept, which had provided additional housing funds for service members assigned duty in locations where the cost of housing exceeded a specified ceiling. The VHA program was subject to distortions because allowances were based on reported individual expenditures. The most serious result of this systemic flaw was that housing allowances were relatively non-responsive to market changes, as members, especially in junior grades, tried to keep their spending below their housing allowances. Members' reports of the unrealistically low costs that they had incurred depressed housing allowances in ensuing years. The "market-based" approach of the BAH, based strictly on average costs by area, eliminated such distortion. [See the explanations of VHA computations on previous pages.] The basic conditions for housing allowance eligibility remained the same for the BAH as they had been for the BAQ. [See subsection on "Selected Conditions Relating to Entitlement to BAQ," above.]

Pub. L. No. 105-85 stipulated three factors in the computation of a BAH for every member eligible for a housing allowance: pay grade, dependency status, and geographic location. For every grade, dependency status, and geographic location where eligible members were assigned, the Department of Defense was to establish a BAH figure based on the difference between average monthly housing costs in the area for individuals of a given grade and dependency status, as determined by the department, and 15 percent of the national median monthly cost of housing for that grade and dependency status, also as determined by the department. Percentages of annual adjustments were to be determined by a ratio of the national monthly housing cost index for June of the previous year to the same index for June of the year preceding that year. In other words, the trend of national housing cost growth established over the previous year (June–June) would determine annual BAH increases and decreases in all areas. However, Pub. L. No. 105-85 also stipulated that no member who had established BAH eligibility in an area and retained that eligibility uninterrupted would suffer a subsequent reduction in housing allowance, no matter what changes occurred in the annual rate. (The VHA system guaranteed that a member's allowance would not be reduced if regional costs declined, but only if the member's actual housing cost did not decline.) Eligibility would be interrupted by a permanent change of station, reduction in grade, or change in dependency status. During the period of transition from the BAQ/VHA system to the BAH system (1998–2005), members were guaranteed that no housing allowance would drop below the level of the final BAQ/VHA allowance. Beginning in 2005, however, local market costs would be the exclusive determinant of the BAH.

The establishment and yearly updating of specific local housing costs was facilitated by substantial improvements in data gathering and processing that occurred during the 1990s. Based on housing rental cost data collected from military housing offices by the Runzheimer International management consultant firm and from a number of local civilian sources, the Department of Defense compiled a listing of BAH rates in about 400 military housing areas (MHAs) within the United States (including Alaska and Hawaii), covering the entire country regardless of the current presence of military personnel in a particular area. In the 2003 listing, Texas (20) and California (18) were the states with the largest number of MHAs. Data also were collected on local insurance and utility rates, which are included in an area's BAH. The rates for each MHA were to be updated annually as new data are gathered. Rates are based on average local rental costs for types of housing deemed "appropriate" for civilians earning salaries similar to those of the armed services pay grades. For example, in 2003 the local rate for an E-5 with dependents was based on the average rental cost of a two-bedroom townhouse, but for an E-6 with dependents, the rate was based on average rental cost for a three-bedroom townhouse. Rate formulas for other grades include percentages of the cost difference between one type of housing and another. An amendment in the National Defense Authorization Act for Fiscal Year 2001,

[63] An exception to this formula is the so-called BAH II rate, which is paid to National Guard and reserve members on duty for less than 140 days. That rate, like the original BAQ rate, does not vary according to duty location.

Pub. L. No. 106-398, stipulated that the Department of Defense could not differentiate among the lowest four enlisted grades (E-1 through E-4) in establishing these standards. The housing standard for these grades was increased to be the sum of the average rental cost of a two-bedroom apartment and one-half the difference between that cost and the rental cost of a two-bedroom townhouse in the member's MHA.

According to the National Defense Authorization Act for Fiscal Year 1998, a member's BAH would be the established monthly cost for the given MHA by grade and dependency status, minus 15 percent of the national average monthly housing cost for those categories. However, the 15-percent difference ensured that members would continue to incur substantial out-of-pocket housing expenses.

Beginning in 2001, annual funding in successive years moved steadily toward fully eliminating members' out-of-pocket housing expenses by 2005, a goal announced by Secretary of Defense William Cohen in 2000. In support of this goal, the National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654 (2000), removed the "15-percent formula" that had been added to 37 U.S.C. 403 three years earlier. The amended legislation simply authorized the Department of Defense to prescribe housing allowance rates applicable to grade, dependency status, and location, and comparable to costs incurred by civilians with similar income levels.

Prior to the repeal of the "15-percent formula," Pub. L. No. 106-65 provided for an additional $225 million to fund the BAH program for Fiscal Year 2000. That figure was a conference compromise between the Senate version, which offered no such funding, and the initial House position, which provided $442,500,000.[64] At least two bills introduced and referred to the House Armed Services Committee in 2001 would have advanced the deadline for eliminating out-of-pocket housing expenses from 2005 to 2003. Neither bill reached a vote in the full House. The Senate version of the National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1012 (2001), contained a provision that would have increased the BAH enough to accelerate completion of the original five-year plan by two years. This provision was dropped from the legislation in conference, but with this statement:

> The conferees believe that service members should not be required to pay out-of-pocket a percentage of their housing costs when they are unable to live in government quarters. The conferees support the plan to eliminate these out-of-pocket expenses and strongly encourage the Secretary of Defense to accelerate this plan.[65]

Between the 2002 and 2004 budgets, the average out-of-pocket housing expense for members dropped from 11.7 percent to 3.5 percent of total average costs. To achieve this reduction, beginning in 1998 annual BAH increases were twice or even three times the increases in off-base housing costs for a given area. Between 1998 and 2002, national rental costs increased by a cumulative average of 16.2 percent; in the same period, average cumulative increases in the BAH for enlisted personnel varied from 32.2 percent for an E-8 to 60.5 percent for an E-1. During the same period, the lowest average increase for an officer grade was 27.8 percent (for an O-1). The average BAH increase between 2002 and 2003 was 8 percent.[66]

Average out-of-pocket housing expenses were officially eliminated as of January 1, 2005.[67] However, BAH is based on median rental housing costs, as estimated annually by Runzheimer International for each Military Housing Area and the U.S. Department of Housing and Urban Development for each county outside a Military Housing Area. Median housing costs include current fair-market rent, average utilities, and renters' insurance. Because a median is involved, half of all personnel actually still have out-of-pocket expenses. The

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[64] H.R. Rep. 106-301 (Committee of Conference), at 750, accompanying S. 1059, 106th Cong., 1st sess. (1999).

[65] U.S. Code Congressional and Administrative News, 2001, v. 3, 1101.

[66] Tom Philpott, "Stateside Housing Pay to Rise an Average of 8 Percent," *Military Update*, November 7, 2002. http://www.fra.org/mil-up/milup-archive/11-07-02.milup.htm.

[67] "Officials Announce 2005 Housing Allowance Rates," *Fort Sam Houston News Leader* 36, no. 50 (December 16, 2004): 3. http://www.samhouston.army.mil/pao/2004pdf/12_16_04.pdf.

average BAH increases were 8 percent in FY 2005,[68] 5.9 percent in FY 2006,[69] 3.5 percent in FY 2007,[70] 7.3 percent in FY 2008,[71] and 6.9 percent in FY 2009,[72] 2.5 percent in 2010,[73] 1.1 percent in 2011,[74] 2 percent in 2012,[75] 3.8 percent in 2013,[76] and 5 percent in 2014.[77]

The Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 authorized DOD to reduce the monthly amount of BAH to no more than 1 percent of the national average for adequate housing for a given pay grade and dependency status.[78] The elimination of renter's insurance also changed the basic allowance for housing rate computation.[79] This reduction does not apply to veteran's benefits paid under Title 38 of the U.S. Code. The effect is that VA benefits that are tied to BAH rates, such as those afforded by the Post-9/11 GI Bill, are not subject to the rate reduction.[80] According to the Joint Explanatory Statement issued by the House and Senate Armed Services Committees, the final bill is not a rejection of DOD's request for a three-year implementation of BAH changes. The committees stated, "…consideration of further changes to BAH in fiscal years 2016, 2017, and beyond is deferred until after the committees receive the report of the Military Compensation and Retirement Modernization Commission, which is due in February 2015."[81] That report, issued January 29, 2015, contained no recommendations regarding BAH.[82] Overall, the average increase in housing rates was 0.5 percent in 2015.[83]

The National Defense Authorization Act for Fiscal Year 2016 phased-in modifications to the BAH rate computation reflect the intentions of the prior year's authorizing committees to effect multi-year changes. The 1-percent reduction implemented in 2015 was increased to 2 percent for 2016, and would increase to 3 percent in 2017, 4 percent in 2018, 5 percent in 2019, and in each fiscal year thereafter. These increases effectively revive the cost-sharing element (out-of-pocket expenses) that had been eliminated in 2005. However, the Joint Explanatory Statement accompanying the law, issued by the House and Senate Armed Services Committees, states, "we strongly believe that this change to the calculation of BAH should not be used to justify the collection of out-of-pocket housing expenses, in excess of BAH, from service members

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[68] "One-size-fits-all Pay Returns in 2005," *Army Times*, January 10, 2005.
[69] "BAH, Nation's Housing Market Merge Fully in '06," *Air Force Times*, January 16, 2006.
[70] "BAC RC/T and BAH Differential," *Air Force Times*, January 15, 2007.
[71] "Veto Puts Some Pay, Benefits Changes on Hold," *Air Force Times*, January 14 2008.
[72] "Raises in Allowances, Pay on Time This Year," *Air Force Times*, January 12, 2009.
[73] U.S. Department of Defense, "DOD Releases 2010 Housing Rates," No. 980-09, December 16, 2009.
[74] U.S. Department of Defense, "Department of Defense Releases 2011 BAH Rates," No. 1148-10, December 15, 2010.
[75] U.S. Department of Defense, "Department of Defense Releases 2012 BAH Rates," No. 1023-11, December 15, 2011.
[76] U.S. Department of Defense, "Department of Defense Releases 2013 BAH Rates," No. 985-12, December 17, 2012.
[77] U.S. Department of Defense, "Department of Defense Releases 2014 Basic Allowance for Housing Rates," December 17, 2013.
[78] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub.L.No. 113-291, Title VI, Sec. 604, 128 Stat. 3292, 3398 (2014); U.S. House of Representatives, Committee on Armed Services, "Legislative Text and Joint Explanatory Statement to Accompany H.R. 3979, Public Law 113-291," Committee Print No. 4, 782 (2014).
[79] U.S. Department of Defense, "DoD Releases 2015 Military Pay and Compensation Rates," December 22, 2014.
[80] U.S. Library of Congress, Congressional Research Service, FY2015 National Defense Authorization Act: Selected Military Personnel Issues, Washington, DC: December 11, 2014, 7.
[81] U.S. House of Representatives, Committee on Armed Services, "Legislative Text and Joint Explanatory Statement to Accompany H.R. 3979, Public Law 113-291," 86.
[82] U.S. Military Compensation and Retirement Modernization Commission, "Final Report," Washington, DC: January 29, 2015. http://www.mcrmc.gov/public/docs/report/mcrmc-finalreport-29jan15-lo.pdf
[83] U.S. Department of Defense, "DoD Releases 2015 Military Pay and Compensation Rates," No. 627-14, December 22, 2014
[84] National Defense Authorization Act for Fiscal Year 2016, Pub.L.No. 114-92, Title VI, Sec. 603, 129 Stat. 726, 836 (2015).

assigned to [an authorized] housing unit."[85] Overall, the average increase in housing rates is 3.4 percent in 2016.[86]

Following Hurricane Katrina in August 2005, the National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136, authorized an increase in basic allowance for housing and extension of temporary lodging expenses authority for areas subject to major disaster declaration or for installations experiencing a sudden increase in personnel levels. Under this provision, housing must be located in an area covered by a declaration by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, as amended 42 U.S.C. 5170. This authority initially expired on September 30, 2009 and has been extended in yearly increments through December 31, 2016.[87]

The National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84 mandates that the Secretary of Defense shall submit to the congressional defense committees a report reviewing the housing standards used to determine the monthly rates of basic allowance for housing under section 403 of title 37, United States Code and reviewing the process and schedule for conducting surveys used to establish locality rates of basic allowance for housing. DOD issued its report in June 2010.[88]

In FY 2006, the rate of basic allowance for housing to be paid to certain members of a reserve component serving on active duty for more than 30 days was set equal to that of similar members of a regular component of the uniformed services. The National Defense Authorization Act for Fiscal Year 2012 mandates a DOD study on the "implications for the monthly amount of basic allowance for housing of the transitions of members of the Army National Guard and Air National Guard from active duty to full-time national guard duty, and from full-time national guard duty to active duty." The report, due no later than five months after December 2011, was to assess housing location, BAH rates, duration of service, duration of break in service, and duty status, and recommend modifications of policy and law if appropriate. [89] The National Defense Authorization Act for Fiscal Year 2013 amends 37 U.S.C. 403(g) to require that the BAH paid to a member of a reserve component performing active guard and reserve duty be based on their permanent duty station in most cases, even when the member is mobilized for service on active duty. During such transitions between active duty and active guard and reserve duty, affected members would continue to retain uninterrupted eligibility for BAH rate protection, so long as the member remains on active duty without a break in service. Members receiving BAH at a rate higher than provided for under this provision, as of January 2013 would continue to receive the higher rate until such time as they are reassigned for duty at their permanent duty station, when they shall begin to receive BAH at the prevailing rate in effect at that duty station. The Secretary concerned has discretion to pay the higher rate.[90]

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[85] U.S. House of Representatives, Committee on Armed Services, "Legislative Text and Joint Explanatory Statement to Accompany S. 1356, Public Law 114-92," 673.

[86] U.S. Department of Defense, "DoD Releases 2016 Basic Allowance for Housing Rates," NR-471-15, December 15, 2015.

[87] National Defense Authorization Act for Fiscal Year 2016, Pub.L.No. 114-92, Title VI, Sec. 604, 129 Stat. 726, 837.

[88] National Defense Authorization Act for Fiscal Year 2010, Pub.L.No. 111-84, Title VI, Sec. 605, 123 Stat. 2190, 2351 (2009).

[89] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle G, Sec. 661, 125 Stat. 1298, 1467 (2011).

[90] National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, Title VI, Subtitle A, Sec. 604, 126 Stat. 1632, 1774 (2013); U.S. House of Representatives, Conference Committee, "National Defense Authorization Act for Fiscal Year 2013," H.R. Rep. No. 112-705, 769.

Overseas Housing Allowance

"Overseas station allowance" is the collective title of the payment authorized by law as "a per diem, considering all elements of the cost of living to members ... and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses, to ... a member who is on duty outside of the United States or in Hawaii or Alaska, whether or not he is in a travel status." [See 37 U.S.C. §405(a).] Until the definition was amended by the National Defense Authorization Act for 2001, Pub. L. No. 106-398, this per diem consisted of four main components: (1) a housing allowance—termed "overseas housing allowance" or "overseas station housing allowance;"[91] (2) a cost of living allowance; (3) a temporary lodging allowance; and (4) an interim housing allowance. The 2000 amendment to 37 U.S.C. §405 made the more general provision that a per diem "consider all elements of the cost of living….including the cost of quarters, subsistence, and other necessary incidental expenses," without prescribing particular kinds of housing allowances. [Overseas station allowances are considered in greater depth in Chapter V.C.3., "Overseas Station Allowances," below.]

The overseas housing allowance is traceable to a provision in the Act of July 2, 1942 (Military Appropriation Act for Fiscal Year 1943), ch. 477, Pub. L. No. 77-649, §1, 56 Stat. 611 (1942), which authorized the expenditure of funds appropriated for "Contingencies of the Army" for the "actual and necessary expenses or *per diem* in lieu thereof, as may be determined and approved by the Secretary of War, of military and civilian personnel in and under the Military Establishment on special duty in foreign countries." The Act of October 26, 1942 (Second Supplemental National Defense Appropriation Act for Fiscal Year 1943), ch. 629, Pub. L. No. 77-763, §102, 56 Stat. 990, 993 (1942), provided that Navy appropriations for fiscal year 1943 were available to make similar payments to military and civilian personnel of the naval establishment. A Navy representative explained the need for overseas allowances generally, including overseas housing allowance, in these terms:

> The reason it is necessary to make provision for these personnel is that the cost of living in many places abroad has risen steeply and rapidly. It is estimated that in London the average rental costs are about 63 percent higher than in Washington, and other costs are about 41 percent higher.... In Chunking [sic, presently known as Chongqing under the Pinyin zimu system for romanization of Chinese place names], China, the costs of everything are reported by our naval attache as rising vertically. Rentals are high, but food is higher. A State Department estimate in July indicates that rental was 123 percent higher than in Washington and it is understood that the State Department is granting special allowances to their personnel assigned to Chunking. [The representative went on to list 37 other foreign countries in which rental or other living costs were 25 percent or more in excess of Washington rates.][92]

Until 1946, the expenditure of funds for overseas station allowances generally was authorized in annual appropriations acts for personnel on special duty in foreign countries. The first permanent legislative authority for overseas station allowances was incorporated in the Act of August 2, 1946, ch. 756, Pub. L. No. 79-604, §203, 60 Stat. 853, 859 (1946), characterized as "An Act to enact certain provisions now included in the Naval Appropriation Act, 1946, and for other purposes." This act changed the preexisting overseas station allowances program in that it permitted payments to personnel on duty "outside continental United States or in Alaska," whereas the annual authority under the appropriation acts had authorized payment only to those on duty in "foreign countries."

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[91] *Hearings before a Subcommittee of the House Appropriations Committee on the Second Supplemental National Defense Appropriation Bill for 1943*, 77th Cong., 2d sess., 93–94 (1942).
[92] H.R. 5007, §303(b), 81st Cong., 1st sess. (1949).

Section 303(b) of the bill[93] that was later to become the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §303(b), 63 Stat. 802, 814 (1949), restated the overseas station allowances authority but in somewhat altered terms. It established overseas station allowances as per diem payments, thereby withdrawing authority to defray actual expenses. Further, it expressly provided that the extra living costs experienced overseas by dependents, as well as by members themselves, could be included in computing the amount of the allowance entitlement.[94]

Section 303(b) of H.R. 5007, 81st Cong., 1st sess. (1949), was enacted in the Career Compensation Act of 1949, ch. 681, *id*., exactly as initially drafted. This legislation is the source of the overseas station allowance provisions of Title 37, United States Code, including overseas housing allowances.[95] As enacted, the law authorized the payment of overseas station allowances under regulations to be prescribed by the Secretaries of the various services. Since the law classifies these allowances as "travel and transportation" allowances, the secretarial regulations are prescribed in Volume 1 of the Joint Federal Travel Regulations (JFTR). In implementing overseas station allowance authority generally, the JFTR established a housing allowance, frequently referred to as "overseas housing allowance," which in its original form was designed to reimburse military personnel for overseas housing costs in excess of their basic allowance for quarters, and the level of which was to be based on cost-of-living data from overseas commands. The amount of overseas housing allowance paid to a member varied geographically because the excess costs the allowance is intended to partially defray vary from locality to locality. The overseas housing allowance also includes intra-pay-grade differentials for each locality, on the theory that a member's standard of living—including housing costs—is related to income level. And, since dependents' expenses were taken into account in determining the level of the allowances, the overseas housing allowance contained a within-grade differential based on dependency status, just as the variable housing allowance did after the amendments to the latter program effected by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §602, 99 Stat. 583, 636 (1985).[96]

The Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §602(e), 98 Stat. 2492, 2536 (1984), amended both the variable housing allowance and the overseas housing allowance. Before January 1, 1985, all manifestations of overseas station allowances, specifically including housing allowances, were available to armed forces personnel stationed in Alaska and Hawaii, as well as to personnel stationed in Tokyo, London, Rome, etc. Without disturbing other aspects of the overseas station allowance, the 1985 Authorization Act withdrew entitlement to the overseas housing allowance from armed forces personnel stationed in Alaska and Hawaii. At the same time that authority to make overseas housing allowance payments to armed forces personnel in Alaska and Hawaii was being withdrawn, however, authority to make variable housing allowance payments to such personnel was being extended.

While the 1985 National Defense Authorization Act, Pub. L. No. 98-525, *id*., thus replaced overseas housing allowance authority for military personnel stationed in Alaska or Hawaii with variable housing allowance authority, the Act of October 12, 1984 (Continuing Appropriations for Fiscal Year 1985), Pub. L. No. 98-473, §8108, 98 Stat. 1837, 1943 (1984), which was enacted before the 1985 Authorization Act, provided that, notwithstanding the proposed amendment to the variable housing allowance program, personnel stationed in Alaska or Hawaii could be paid a station housing allowance under 37 U.S.C. §405(b), provided they did not also receive variable housing allowance payments under the then-current 37 U.S.C.

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[93] Section 303(b) of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §303(b), 63 Stat. 802, 814 (1949), was classified to 37 U.S.C. §253(b). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat 451 (1962), the overseas station allowance provisions were codified at 37 U.S.C. §405 (76 Stat. 473). See 37 U.S.C. §405.

[94] See, e.g., *Hearings before a Subcommittee of the House Armed Services Committee on H.R. 2553*, 81st Cong., 1st sess., 1711 (1949), and *Hearings before the House Armed Services Committee on H.R. 5007*, 81st Cong., 1st sess., 280 (1949).

[95] See text accompanying footnote 47 to this chapter, above.

[96] See text accompanying footnote 44 to this chapter, above.

§403 or under the then-proposed 37 U.S.C. §403a.[97] This limitation on VHA authority for personnel stationed in Alaska and Hawaii was rescinded by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §603, 99 Stat. 583, 637–38 (1985). Transitional provisions enabled personnel receiving overseas housing allowance in Alaska and Hawaii on the date of enactment of the 1986 Authorization Act—i.e., on November 8, 1985—to continue to receive that allowance, which was generally more liberal than the variable housing allowance, but prohibited such personnel from also receiving variable housing allowance.[98]

Pursuant to amendments to 37 U.S.C. §405 made by the Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, §807(a), 93 Stat. 803, 813 (1979), overseas housing allowances may be paid in advance. As explained in the relevant congressional report, the advance-payment authority was adopted to enable members to meet the added costs that the overseas housing allowance was intended to defray, at the time the expenses were incurred, "in order to minimize the financial impact on service members assigned to high-cost overseas areas."[99]

Until 1998, the overseas housing allowance (OHA) was the second of a two-part housing allowance received by members assigned overseas and housed in non-government quarters; the first part was the basic allowance for quarters (BAQ). The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1629 (1997), consolidated the OHA into a single payment, under the same principle as that applied by the 1998 legislation for members assigned in the United States.[100] Basic elements of the previous legislation, such as variable payments to match geographic differences in housing expenses, differentiation according to grade and dependency status, and use of directly reported cost figures, were retained in the new system. As with the new system introduced concurrently for housing allowances within the United States, a principal goal of the overseas reform was to increase flexibility and minimize members' out-of-pocket housing expenses.

As it was constituted in 2004, the OHA included three component allowances: rent, utilities and recurring maintenance, and move-in allowance. The rent allowance, based on actual rental expenses reported to local finance centers by members, was computed so that 80 percent of members with dependents were fully reimbursed for their monthly rent outlay. Members without dependents received 90 percent of the with-dependent rate. About 80 percent of total OHA payments went to fund the rent component of the program. The allowance for utilities and recurring maintenance, which was based on expenses reported by members, was computed to cover the full expenses of 80 percent of members receiving OHA. The move-in housing allowance (MIHA) covered items such as upgrades necessary to make a dwelling habitable (MIHA/Misc.), rental agent fees (MIHA/Rent), and security-related upgrades (MIHA/Security). MIHA accounted for the remaining 20 percent of the program's outlays.

For each overseas country, uniform countrywide rates are established for utilities/maintenance and MIHA; rental rates are established by locality within the country. Rental rates are revised every pay period to account for currency fluctuations, and revised every six months to account for cost changes. Utility/recurring maintenance allowances are revised every year and MIHA/Misc. every three years. In 2016 more than 51,000

[97] See H.R. Rep. No. 99-81 (Committee on Armed Services), at 217, accompanying H.R. 1872, and S. Rep. No. 99-41 (Committee on Armed Services), at 190–91, accompanying S. 1029, 99th Cong., 1st sess. (1985).
[98] That Congress was aware that the substitution of VHA entitlements for overseas housing allowances would decrease program costs by reducing entitlements of individual members of the armed forces is shown by the grandfathering of overseas housing allowances for members assigned to permanent duty stations in Alaska or Hawaii on December 31, 1984, the day before the effective date of the provisions in issue. See Section 602(f)(2) of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §602(f)(2), 98 Stat. 2492, 2537 (1984), reprinted at 37 U.S.C. §403a note.
[99] H.R. Rep. No. 96-166 (Committee on Armed Services), at 139, accompanying H.R. 4040, 96th Cong., 1st sess. (1979).
[100] In one case, however, a two-part housing allowance remained in effect. Members serving overseas unaccompanied tours, with dependents remaining in the United States, receive a with-dependents BAH for their dependents' housing cost and the unaccompanied OHA for themselves, if they do not occupy government quarters.

members, assigned to 129 countries, received a total of $1.5 billion in OHA payments. The average per-member payment was $25,600.[101]

Cost: For historical data on the cost of the Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA) through 1998, see table II-2A, below. For the total cost of the Overseas Housing Allowance, see table II-2B, below. For the monthly rates of BAH for various pay grades from 1998 through 2009, see table II-2C, below.

Table II-2A. Total Cost of Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA) through 1998

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
Basic Allowance for Quarters (BAQ)						
1972	1,178,639	$1,903,041	229,996	$567,760	948,643	$1,335,281
1973	1,101,014	1,859,918	214,259	494,217	886,755	1,365,701
1974	1,054,989	1,756,681	204,587	468,686	850,402	1,287,995
1975	1,028,458	1,776,817	195,520	466,309	832,938	1,310,508
1976	976,761	1,763,083	184,829	464,943	791,932	1,298,140
1977	1,704,482	1,940,192	199,151	519,398	1,505,331	1,420,794
1978	1,672,995	2,142,481	196,456	576,281	1,476,539	1,566,200
1979	1,645,167	2,211,472	198,834	616,509	1,446,333	1,594,963
1980	1,640,050	2,327,031	204,158	672,408	1,435,892	1,654,623
1981	1,660,618	2,634,971	209,718	775,244	1,450,900	1,859,727
1982	1,689,960	3,134,429	214,859	907,046	1,475,101	2,227,383
1983	1,719,267	3,441,537	225,050	992,996	1,494,217	2,448,541
1984	1,731,761	3,659,733	232,609	1,059,992	1,499,152	2,599,741
1985	1,756,885	3,917,979	236,458	1,115,409	1,520,427	2,802,570
1986	1,759,343	4,136,496	242,303	1,180,795	1,517,040	2,955,701
1987	1,752,971	4,274,390	241,790	1,214,733	1,511,181	3,059,657
1988	1,743,039	4,366,719	238,416	1,227,163	1,504,623	3,139,556
1989	1,705,948	4,537,067	237,769	1,276,938	1,468,179	3,260,129
1990	1,663,618	4,663,840	232,201	1,313,867	1,431,417	3,349,973
1991	1,102,248	5,116,646	232,393	1,439,229	869,855	3,677,417
1992	950,285	4,641,921	212,391	1,373,041	737,894	3,268,880
1993	900,169	4,579,996	198,145	1,333,246	702,024	3,246,750
1994	834,007	4,363,642	189,307	1,306,680	644,700	3,056,962
1995	813,889	4,366,932	183,719	1,284,871	630,170	3,082,061
1996	856,153	4,381,056	179,713	1,330,641	676,440	3,050,415
1997	747,780	4,383,871	176,186	1,363,670	571,594	3,020,201
1998	551,478	1,066,374	129,457	335,259	422,021	731,115
Variable Housing Allowance (VHA)						
1981	702,893	$615,920	151,617	$161,351	551,276	$454,569
1982	766,486	732,721	163,687	192,259	602,799	540,462
1983	811,484	880,999	177,907	240,862	633,577	640,137

[101] Defense Travel Management Office, "Overseas Housing Allowance," https://www.defensetravel.dod.mil/Docs/Fact_Sheet_OHA.pdf .

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1984	824,429	824,595	180,273	222,960	644,156	601,635
1985	832,948	952,140	185,516	278,583	647,432	673,557
1986	808,550	1,031,162	191,599	325,110	616,951	706,052
1987	806,262	1,058,077	190,479	334,849	615,783	723,228
1988	795,259	1,035,598	187,025	325,220	608,234	710,378
1989	727,403	1,072,818	177,397	340,555	550,006	732,263
1990	728,646	1,102,001	178,012	350,120	550,634	751,881
1991	794,494	1,282,976	188,443	406,038	606,051	876,938
1992	766,558	1,275,210	182,472	403,739	584,086	871,471
1993	702,098	1,269,498	170,830	401,582	531,268	867,916
1994	693,778	1,247,859	164,393	391,759	529,385	856,100
1995	666,342	1,217,520	159,516	382,271	506,826	835,249
1996	675,105	1,229,347	158,975	390,797	516,130	838,550
1997	644,627	1,223,385	159,155	395,812	485,472	827,573
1998	481,925	300,972	116,715	98,443	365,210	202,529

Table II-2B. Overseas Housing Allowance (OHA), 1972–2015

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	---	$40,284	---	$9,962	---	$30,322
1973	---	51,001	---	12,474	---	38,527
1974	102,916	83,074	17,005	19,659	85,911	63,415
1975	92,491	97,311	17,380	23,896	75,111	73,415
1976	105,380	98,104	16,840	23,432	88,540	74,672
1977	90,034	86,792	14,672	22,384	75,362	64,408
1978	97,653	117,155	15,859	25,985	81,794	91,170
1979	106,290	162,429	16,491	31,079	89,799	131,350
1980	109,956	189,215	17,236	34,756	92,720	154,459
1981	127,911	169,237	17,205	31,342	110,706	137,895
1982	89,888	124,384	11,199	27,087	78,689	97,297
1983	89,345	193,788	13,042	40,321	76,303	153,467
1984	97,302	244,604	14,564	51,953	82,738	192,651
1985	105,901	228,233	16,841	51,819	89,060	176,414
1986	124,266	299,365	22,282	71,504	101,984	227,861
1987	123,726	368,784	23,394	90,375	100,332	278,409
1988	122,008	436,127	22,680	107,378	99,328	328,749
1989	112,827	354,819	21,113	86,193	91,714	268,626
1990	99,508	393,214	19,376	93,018	80,132	300,196
1991	88,630	394,419	17,555	102,713	71,075	291,706
1992	68,353	333,701	15,344	96,820	53,009	236,881
1993	58,627	295,501	13,237	83,014	45,390	212,487
1994	50,755	287,661	11,690	77,923	39,065	209,738
1995	48,271	339,364	10,991	94,440	37,280	244,924
1996	46,759	316,147	11,494	94,416	35,265	221,731
1997	46,330	292,723	11,570	87,816	34,760	204,907

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1998	44,184	262,625	11,546	97,722	32,638	164,903
1999	37,183	497,918	12,019	171,063	25,164	326,855
2000	43,773	609,183	12,150	199,250	31,623	409,933
2001	44,705	601,291	12,273	196,461	32,432	404,830
2002	47,536	696,373	12,297	229,257	35,239	467,116
2003	56,364	953,189	16,007	306,009	40,357	647,180
2004	60,215	1,065,132	17,329	334,352	42,886	730,780
2005	56,057	1,166,482	16,374	395,210	39,683	771,272
2006	57,325	1,224,623	14,401	363,953	42,924	860,670
2007	56,662	1,354,028	13,512	389,298	43,150	964,730
2008	52,341	1,502,285	13,339	428,204	39,002	1,074,081
2009	54,450	2,070,343	13,433	529,327	41,017	1,541,016
2010	61,190	2,172,308	14,795	567,829	46,395	1,604,479
2011	67,381	2,363,606	15,155	628,801	52,226	1,734,805
2012	59,997	2,347,043	15,832	636,268	44,165	1,710,775
2013	56,377	2,318,425	14,781	644,185	41,596	1,674,240
2014	54,340	2,301,716	14,178	623,613	40,162	1,678,103
2015	53,737	1,997,073	14,378	536,537	39,359	1,460,536

Note: Starting in 2007, Overseas Housing Allowance includes Moving-In Housing Allowance (MIHA) for Air Force, Navy, and Marine Corps. Until 2006, MIHA was part of Overseas Station Allowance.

--- No data available.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Table II-2C. Monthly National Average Rates, Basic Allowance for Housing (BAH), 1998–2015

Pay Grade	Date	Without Dependents	With Dependents
O-10	Jan-1998	1154.81	1362.06
	Jan-1999	1221.40	1397.05
	Jan-2000	1228.43	1551.31
	Jan-2001	1546.57	1758.64
	Jan-2002	1749.37	2055.83
	Jan-2003	1581.44	1920.60
	Jan-2004	1581.40	1949.54
	Jan-2005	1983.16	2236.10
	Jan-2006	2147.81	2412.26
	Jan-2007	1952.80	2285.42
	Jan-2008	2043.00	2419.00
	Jan-2009	1749.00	2123.00
	Jan-2010	2095.00	2547.00
	Jan-2011	2331.00	2528.00

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2012	2586.00	2701.00
	Jan-2013	2423.00	2746.00
	Jan-2014	2395.00	2779.00
	Jan-2015	2064.00	2719.00
O-9	Jan-1998	1154.81	1362.06
	Jan-1999	1221.40	1397.05
	Jan-2000	1228.43	1551.31
	Jan-2001	1546.57	1758.64
	Jan-2002	1749.37	2055.83
	Jan-2003	1581.44	1920.60
	Jan-2004	1581.40	1949.54
	Jan-2005	1983.16	2236.10
	Jan-2006	2147.81	2412.26
	Jan-2007	1952.80	2285.42
	Jan-2008	2043.00	2419.00
	Jan-2009	1749.00	2123.00
	Jan-2010	2095.00	2547.00
	Jan-2011	2331.00	2528.00
	Jan-2012	2586.00	2701.00
	Jan-2013	2423.00	2746.00
	Jan-2014	2395.00	2779.00
	Jan-2015	2064.00	2719.00
O-8	Jan-1998	1154.81	1362.60
	Jan-1999	1221.40	1397.05
	Jan-2000	1228.43	1551.31
	Jan-2001	1546.57	1758.64
	Jan-2002	1749.37	2055.83
	Jan-2003	1581.44	1920.60
	Jan-2004	1581.40	1949.54
	Jan-2005	1983.16	2236.10
	Jan-2006	2147.81	2412.26
	Jan-2007	1952.80	2285.42
	Jan-2008	2043.00	2419.00
	Jan-2009	1749.00	2123.00
	Jan-2010	2095.00	2547.00
	Jan-2011	2331.00	2528.00
	Jan-2012	2586.00	2701.00
	Jan-2013	2423.00	2746.00
	Jan-2014	2395.00	2779.00
	Jan-2015	2064.00	2719.00
O-7	Jan-1998	1154.81	1362.60
	Jan-1999	1221.40	1397.05
	Jan-2000	1228.43	1551.31
	Jan-2001	1546.57	1758.64

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2002	1749.37	2055.83
	Jan-2003	1581.44	1920.60
	Jan-2004	1581.40	1949.54
	Jan-2005	1983.16	2236.10
	Jan-2006	2147.81	2412.26
	Jan-2007	1952.80	2285.42
	Jan-2008	2043.00	2419.00
	Jan-2009	1749.00	2123.00
	Jan-2010	2095.00	2547.00
	Jan-2011	2331.00	2528.00
	Jan-2012	2586.00	2701.00
	Jan-2013	2423.00	2746.00
	Jan-2014	2395.00	2779.00
	Jan-2015	2064.00	2719.00
O-6	Jan-1998	1048.21	1224.38
	Jan-1999	1089.48	1260.78
	Jan-2000	1093.05	1320.02
	Jan-2001	1285.22	1491.16
	Jan-2002	1469.28	1684.62
	Jan-2003	1543.29	1777.51
	Jan-2004	1573.23	1813.58
	Jan-2005	1692.22	1970.93
	Jan-2006	1803.27	2075.69
	Jan-2007	1822.63	2120.84
	Jan-2008	1879.00	2255.00
	Jan-2009	1745.00	2099.00
	Jan-2010	2038.00	2415.00
	Jan-2011	2112.00	2440.00
	Jan-2012	2205.00	2562.00
	Jan-2013	2267.00	2596.00
	Jan-2014	2285.00	2622.00
	Jan-2015	2244.00	2605.00
O-5	Jan-1998	994.57	1163.61
	Jan-1999	1017.06	1195.14
	Jan-2000	1000.93	1226.43
	Jan-2001	1160.15	1386.90
	Jan-2002	1286.94	1549.25
	Jan-2003	1401.22	1698.89
	Jan-2004	1446.17	1723.26
	Jan-2005	1553.04	1852.97
	Jan-2006	1677.78	1960.57
	Jan-2007	1718.47	2039.20
	Jan-2008	1718.00	2145.00
	Jan-2009	1650.00	2081.00
	Jan-2010	1920.00	2311.00

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2011	1939.00	2334.00
	Jan-2012	2015.00	2423.00
	Jan-2013	2080.00	2481.00
	Jan-2014	2127.00	2510.00
	Jan-2015	2123.00	2492.00
O-4	Jan-1998	923.48	1026.16
	Jan-1999	925.51	1047.80
	Jan-2000	906.31	1057.46
	Jan-2001	1045.42	1209.67
	Jan-2002	1155.14	1349.49
	Jan-2003	1316.29	1524.96
	Jan-2004	1331.68	1522.90
	Jan-2005	1428.40	1644.80
	Jan-2006	1532.64	1754.65
	Jan-2007	1611.69	1856.97
	Jan-2008	1582.00	1910.00
	Jan-2009	1607.00	1929.00
	Jan-2010	1789.00	2078.00
	Jan-2011	1785.00	2093.00
	Jan-2012	1833.00	2152.00
	Jan-2013	1902.00	2216.00
	Jan-2014	1967.00	2272.00
	Jan-2015	1970.00	2264.00
O-3	Jan-1998	730.83	841.68
	Jan-1999	745.69	858.44
	Jan-2000	752.86	871.90
	Jan-2001	859.21	1006.41
	Jan-2002	936.50	1116.57
	Jan-2003	1103.38	1313.33
	Jan-2004	1098.88	1289.15
	Jan-2005	1196.10	1396.29
	Jan-2006	1288.42	1496.39
	Jan-2007	1417.34	1628.86
	Jan-2008	1376.00	1638.00
	Jan-2009	1463.00	1712.00
	Jan-2010	1521.00	1759.00
	Jan-2011	1500.00	1759.00
	Jan-2012	1539.00	1799.00
	Jan-2013	1600.00	1853.00
	Jan-2014	1680.00	1953.00
	Jan-2015	1715.00	1958.00
O-2	Jan-1998	568.67	719.67
	Jan-1999	592.52	706.42
	Jan-2000	631.89	715.37

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2001	729.46	825.27
	Jan-2002	809.81	935.61
	Jan-2003	933.91	1080.95
	Jan-2004	936.41	1073.93
	Jan-2005	1033.91	1204.65
	Jan-2006	1076.26	1263.91
	Jan-2007	1221.47	1387.82
	Jan-2008	1176.00	1382.00
	Jan-2009	1302.00	1531.00
	Jan-2010	1290.00	1512.00
	Jan-2011	1298.00	1487.00
	Jan-2012	1344.00	1525.00
	Jan-2013	1395.00	1569.00
	Jan-2014	1471.00	1646.00
	Jan-2015	1498.00	1646.00
O-1	Jan-1998	484.85	652.57
	Jan-1999	510.35	654.34
	Jan-2000	563.19	647.97
	Jan-2001	630.36	740.64
	Jan-2002	701.07	834.17
	Jan-2003	808.64	907.52
	Jan-2004	787.42	944.05
	Jan-2005	860.79	1048.11
	Jan-2006	919.11	1126.17
	Jan-2007	1023.06	1213.22
	Jan-2008	1053.00	1245.00
	Jan-2009	1150.00	1356.00
	Jan-2010	1143.00	1322.00
	Jan-2011	1131.00	1328.00
	Jan-2012	1146.00	1349.00
	Jan-2013	1210.00	1442.00
	Jan-2014	1271.00	1521.00
	Jan-2015	1299.00	1532.00
O-3E	Jan-1998	801.70	914.19
	Jan-1999	808.99	936.28
	Jan-2000	795.32	950.91
	Jan-2001	943.34	1088.13
	Jan-2002	1036.93	1220.95
	Jan-2003	1144.90	1352.48
	Jan-2004	1202.09	1388.95
	Jan-2005	1311.39	1519.40
	Jan-2006	1317.71	1526.59+
	Jan-2007	1438.25	1678.58
	Jan-2008	1474.00	1729.00
	Jan-2009	1536.00	1810.00

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2010	1601.00	1873.00
	Jan-2011	1580.00	1905.00
	Jan-2012	1636.00	1942.00
	Jan-2013	1693.00	2009.00
	Jan-2014	1767.00	2092.00
	Jan-2015	1785.00	2087.00
O-2E	Jan-1998	670.96	822.58
	Jan-1999	691.93	840.13
	Jan-2000	729.04	880.09
	Jan-2001	827.80	1007.09
	Jan-2002	902.10	1095.36
	Jan-2003	990.74	1216.79
	Jan-2004	1057.28	1245.51
	Jan-2005	1131.92	1379.66
	Jan-2006	1193.03	1416.21
	Jan-2007	1265.45	1535.40
	Jan-2008	1346.00	1614.00
	Jan-2009	1422.00	1702.00
	Jan-2010	1448.00	1741.00
	Jan-2011	1453.00	1756.00
	Jan-2012	1468.00	1761.00
	Jan-2013	1523.00	1822.00
	Jan-2014	1627.00	1957.00
	Jan-2015	1675.00	1965.00
O-1E	Jan-1998	565.14	764.82
	Jan-1999	595.26	782.39
	Jan-2000	660.07	804.06
	Jan-2001	756.41	923.55
	Jan-2002	805.00	978.43
	Jan-2003	901.27	1102.95
	Jan-2004	960.19	1150.30
	Jan-2005	1051.65	1286.00
	Jan-2006	1022.99	1295.32
	Jan-2007	1169.07	1416.37
	Jan-2008	1258.00	1514.00
	Jan-2009	1333.00	1614.00
	Jan-2010	1326.00	1621.00
	Jan-2011	1335.00	1607.00
	Jan-2012	1397.00	1672.00
	Jan-2013	1488.00	1753.00
	Jan-2014	1536.00	1857.00
	Jan-2015	1596.00	1878.00
W-5	Jan-1998	921.65	1007.16
	Jan-1999	920.15	973.40

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2000	856.26	982.90
	Jan-2001	1000.81	1110.02
	Jan-2002	1103.04	1216.13
	Jan-2003	1264.64	1356.08
	Jan-2004	1230.04	1380.73
	Jan-2005	1341.45	1511.41
	Jan-2006	1495.82	1599.54
	Jan-2007	1559.73	1677.97
	Jan-2008	1607.00	1791.00
	Jan-2009	1616.00	1890.00
	Jan-2010	1674.00	1949.00
	Jan-2011	1624.00	1954.00
	Jan-2012	1700.00	2022.00
	Jan-2013	1803.00	2083.00
	Jan-2014	1951.00	2152.00
	Jan-2015	1905.00	2165.00
W-4	Jan-1998	815.01	912.49
	Jan-1999	820.04	918.05
	Jan-2000	779.55	901.37
	Jan-2001	911.91	1024.28
	Jan-2002	1014.67	1160.04
	Jan-2003	1115.66	1321.88
	Jan-2004	1148.05	1305.86
	Jan-2005	1255.09	1405.99
	Jan-2006	1315.61	1469.37
	Jan-2007	1435.80	1636.71
	Jan-2008	1455.00	1668.00
	Jan-2009	1552.00	1796.00
	Jan-2010	1586.00	1835.00
	Jan-2011	1573.00	1846.00
	Jan-2012	1619.00	1880.00
	Jan-2013	1717.00	1959.00
	Jan-2014	1753.00	2070.00
	Jan-2015	1808.00	2060.00
W-3	Jan-1998	693.13	839.49
	Jan-1999	712.77	835.24
	Jan-2000	702.50	820.93
	Jan-2001	801.60	937.56
	Jan-2002	898.05	1042.31
	Jan-2003	1027.34	1222.00
	Jan-2004	1025.60	1213.49
	Jan-2005	1138.12	1369.61
	Jan-2006	1212.48	1482.48
	Jan-2007	1327.38	1587.38
	Jan-2008	1388.00	1626.00

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2009	1442.00	1715.00
	Jan-2010	1515.00	1770.00
	Jan-2011	1455.00	1761.00
	Jan-2012	1541.00	1801.00
	Jan-2013	1605.00	1875.00
	Jan-2014	1670.00	1994.00
	Jan-2015	1686.00	1985.00
W-2	Jan-1998	598.14	775.22
	Jan-1999	626.36	775.76
	Jan-2000	640.38	771.14
	Jan-2001	724.39	877.38
	Jan-2002	806.96	1001.90
	Jan-2003	971.20	1175.23
	Jan-2004	941.84	1193.53
	Jan-2005	1027.99	1275.86
	Jan-2006	1096.11	1363.26
	Jan-2007	1289.18	1497.99
	Jan-2008	1250.00	1507.00
	Jan-2009	1372.00	1629.00
	Jan-2010	1327.00	1648.00
	Jan-2011	1312.00	1622.00
	Jan-2012	1369.00	1678.00
	Jan-2013	1424.00	1730.00
	Jan-2014	1557.00	1834.00
	Jan-2015	1603.00	1827.00
W-1	Jan-1998	489.63	686.44
	Jan-1999	495.86	643.32
	Jan-2000	470.31	632.03
	Jan-2001	549.62	737.02
	Jan-2002	557.00	793.23
	Jan-2003	771.81	996.99
	Jan-2004	638.65	958.74
	Jan-2005	694.71	1086.84
	Jan-2006	739.57	1135.54
	Jan-2007	1013.69	1302.04
	Jan-2008	976.00	1304.00
	Jan-2009	1207.00	1537.00
	Jan-2010	1083.00	1428.00
	Jan-2011	1049.00	1407.00
	Jan-2012	1086.00	1432.00
	Jan-2013	1094.00	1482.00
	Jan-2014	1150.00	1559.00
	Jan-2015	1200.00	1547.00
E-9	Jan-1998	678.23	874.56

Pay Grade	Date	Without Dependents	With Dependents
	Jan-1999	698.13	895.04
	Jan-2000	741.93	924.36
	Jan-2001	851.70	1057.83
	Jan-2002	944.04	1178.33
	Jan-2003	1047.48	1300.65
	Jan-2004	1088.45	1342.45
	Jan-2005	1178.36	1461.48
	Jan-2006	1271.28	1575.62
	Jan-2007	1341.80	1628.34
	Jan-2008	1398.00	1691.00
	Jan-2009	1436.00	1773.00
	Jan-2010	1527.00	1848.00
	Jan-2011	1506.00	1874.00
	Jan-2012	1564.00	1906.00
	Jan-2013	1624.00	1958.00
	Jan-2014	1682.00	2053.00
	Jan-2015	1730.00	2055.00
E-8	Jan-1998	629.14	804.21
	Jan-1999	654.19	813.20
	Jan-2000	695.79	834.00
	Jan-2001	796.17	957.39
	Jan-2002	880.00	1063.44
	Jan-2003	1005.82	1204.89
	Jan-2004	1019.58	1230.72
	Jan-2005	1122.01	1345.80
	Jan-2006	1196.26	1454.65
	Jan-2007	1281.98	1519.10
	Jan-2008	1311.00	1559.00
	Jan-2009	1373.00	1671.00
	Jan-2010	1431.00	1715.00
	Jan-2011	1415.00	1713.00
	Jan-2012	1457.00	1740.00
	Jan-2013	1510.00	1806.00
	Jan-2014	1593.00	1905.00
	Jan-2015	1636.00	1907.00
E-7	Jan-1998	534.71	747.83
	Jan-1999	565.08	757.19
	Jan-2000	618.16	779.52
	Jan-2001	716.34	892.61
	Jan-2002	785.25	990.04
	Jan-2003	905.73	1139.32
	Jan-2004	904.44	1151.84
	Jan-2005	988.17	1270.85
	Jan-2006	1054.09	1359.62
	Jan-2007	1158.02	1429.05

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2008	1194.00	1484.00
	Jan-2009	1248.00	1600.00
	Jan-2010	1290.00	1620.00
	Jan-2011	1287.00	1601.00
	Jan-2012	1318.00	1630.00
	Jan-2013	1375.00	1691.00
	Jan-2014	1447.00	1780.00
	Jan-2015	1493.00	1789.00
E-6	Jan-1998	489.08	690.39
	Jan-1999	520.89	697.49
	Jan-2000	580.88	735.43
	Jan-2001	672.92	845.55
	Jan-2002	739.06	932.97
	Jan-2003	852.08	1091.08
	Jan-2004	846.85	1102.60
	Jan-2005	933.39	1219.39
	Jan-2006	991.20	1313.58
	Jan-2007	1084.91	1388.51
	Jan-2008	931.00	1127.00
	Jan-2009	1162.00	1536.00
	Jan-2010	1239.00	1557.00
	Jan-2011	1239.00	1526.00
	Jan-2012	1262.00	1561.00
	Jan-2013	1322.00	1620.00
	Jan-2014	1389.00	1703.00
	Jan-2015	1444.00	1722.00
E-5	Jan-1998	450.83	620.59
	Jan-1999	485.89	633.76
	Jan-2000	547.28	648.28
	Jan-2001	633.82	746.39
	Jan-2002	693.81	822.28
	Jan-2003	804.72	961.97
	Jan-2004	796.19	964.90
	Jan-2005	884.67	1057.74
	Jan-2006	932.83	1141.18
	Jan-2007	1020.79	1239.16
	Jan-2008	1077.00	1243.00
	Jan-2009	1085.00	1333.00
	Jan-2010	1140.00	1349.00
	Jan-2011	1158.00	1347.00
	Jan-2012	1160.00	1368.00
	Jan-2013	1222.00	1429.00
	Jan-2014	1283.00	1509.00
	Jan-2015	1354.00	1550.00

Pay Grade	Date	Without Dependents	With Dependents
E-4	Jan-1998	404.35	540.00
	Jan-1999	426.68	553.82
	Jan-2000	462.89	577.33
	Jan-2001	544.03	682.94
	Jan-2002	589.49	756.96
	Jan-2003	709.13	906.80
	Jan-2004	666.96	884.16
	Jan-2005	752.34	958.07
	Jan-2006	795.98	1032.36
	Jan-2007	910.66	1151.24
	Jan-2008	931.00	1127.00
	Jan-2009	952.00	1242.00
	Jan-2010	966.00	1219.00
	Jan-2011	979.00	1234.00
	Jan-2012	995.00	1235.00
	Jan-2013	1035.00	1294.00
	Jan-2014	1078.00	1382.00
	Jan-2015	1122.00	1422.00
E-3	Jan-1998	402.60	504.27
	Jan-1999	426.68	526.51
	Jan-2000	466.43	545.00
	Jan-2001	542.86	691.24
	Jan-2002	570.76	771.01
	Jan-2003	705.29	886.60
	Jan-2004	659.72	892.33
	Jan-2005	745.63	999.39
	Jan-2006	779.13	1045.32
	Jan-2007	930.01	1148.48
	Jan-2008	966.00	1203.00
	Jan-2009	952.00	1242.00
	Jan-2010	966.00	1256.00
	Jan-2011	1000.00	1296.00
	Jan-2012	1013.00	1285.00
	Jan-2013	1057.00	1340.00
	Jan-2014	1102.00	1400.00
	Jan-2015	1165.00	1456.00
E-2	Jan-1998	400.45	490.76
	Jan-1999	426.68	513.23
	Jan-2000	478.29	548.50
	Jan-2001	555.80	695.22
	Jan-2002	590.72	768.81
	Jan-2003	703.74	847.63
	Jan-2004	653.32	874.00
	Jan-2005	755.09	970.64
	Jan-2006	781.12	1000.58

Pay Grade	Date	Without Dependents	With Dependents
	Jan-2007	881.46	1087.24
	Jan-2008	962.00	1151.00
	Jan-2009	952.00	1242.00
	Jan-2010	933.00	1203.00
	Jan-2011	992.00	1257.00
	Jan-2012	990.00	1235.00
	Jan-2013	1065.00	1290.00
	Jan-2014	1105.00	1329.00
	Jan-2015	1238.00	1368.00
E-1	Jan-1998	380.44	488.07
	Jan-1999	426.68	513.23
	Jan-2000	450.86	563.18
	Jan-2001	568.94	724.89
	Jan-2002	580.22	783.41
	Jan-2003	669.45	839.41
	Jan-2004	632.06	870.19
	Jan-2005	761.91	976.87
	Jan-2006	749.71	1000.11
	Jan-2007	876.93	1064.40
	Jan-2008	940.00	1194.00
	Jan-2009	952.00	1242.00
	Jan-2010	954.00	1196.00
	Jan-2011	860.00	1284.00
	Jan-2012	1038.00	1238.00
	Jan-2013	1048.00	1286.00
	Jan-2014	1285.00	1340.00
	Jan-2015	1159.00	1333.00

GENERAL NOTES TO TABLES

Note 1: Dependents Assistance Act legislation rates for enlisted personnel are quoted where they are applicable between the years 1950 and 1973.

Note 2: Section 601(c)(5) of the National Defense Authorization Act for Fiscal Year 1989, Pub. L. No. 100-456, §601(c)(5), 102 Stat. 1918, 1976 (1988), enacted on September 29, 1988, authorized the Secretary of Defense to prescribe separate rates of basic allowance for quarters for commissioned officers credited with more than four years of active service as enlisted members or warrant officers, thereby in effect permitting the Secretary of Defense to authorize rates of basic allowance for quarters differentially higher than those applicable to commissioned officers in the same pay grades without a combination of such enlisted or warrant officer service. Pursuant to that authority, commissioned officers in pay grades O-1E, O-2E, and O-3E, all of whom are necessarily credited with more than four years of active service as enlisted members or warrant officers, were authorized separate and higher rates of basic allowance for quarters beginning January 1, 1989. Executive Order No. 12663, 54 Fed. Reg. 791 (1989), set out as a note under 5 U.S.C. §5332. See Chapter II.B.1 hereof, "Basic Pay," above. Differentially higher rates of partial basic allowance for quarters have not, however, been established for commissioned officers in pay grades O-1E, O-2E, and O-3E. [See Note 4 of General Notes to Tables, below, and Part II of the schedule attached to Executive Order 12990 of February 29, 1996, published at 61 Fed. Reg. 8467, 8470 (March 5, 1996).]

Note 3: Section 1111(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §1111(b), 105 Stat. 1290, 1491 (1991), established the new warrant officer pay grade, chief warrant officer, W-5, effective February 1, 1992, and subsection (c) of that section, §1111(c), 105 Stat. 1491–1492, established new rates of basic allowance for quarters for that pay grade, also effective February 1, 1992. The BAQ rates thus established for the new pay grade have been increased each year since then in keeping with increases in BAQ rates for all service members. See Chapter II.B.1 hereof, "Basic Pay," above.

Note 4: Payment of a partial basic allowance for quarters is authorized by 37 U.S.C. §1009(c)(2) and Part IV of Executive Order 11157, as amended, to members without dependents not entitled to receive the full rate under 37 U.S.C. §403(b) or (c). Partial basic allowance for quarters is payable at the following monthly rates pursuant to Part II of the schedule attached to Executive Order 12990 of February 29, 1996, 61 Fed. Reg. 8467, 8470 (March 5, 1996), set out as notes under 5 U.S.C.A. §5332 and 37 U.S.C.A. §1009.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.B.3.
Basic Allowance for Subsistence

Legislative Authority: 37 U.S.C. §402.

Purpose: To provide a cash allowance to members of the armed forces to defray a portion of the cost of subsistence, such allowance being payable to all enlisted and officer personnel, with variations to account for the unavailability of adequate messing facilities at some duty stations.

Background: Until 1870, officers were normally required to arrange for their own subsistence and received a cash allowance for this purpose in addition to their primary, or base, pay. At first this allowance had a direct relationship to food costs, at bottom being premised on the contract price of a ration at different duty stations. Under this relationship, an officer's ration allowance was a multiple of the daily ration cost at his duty station, with the number of rations to which the officer was entitled varying from two for lower-ranking officers to 15 for general officers.[1] Beginning with the Act of April 12, 1808, ch. 43, §6, 2 Stat. 481, 483 (1808), however, the price of a ration was fixed at a uniform rate of 20 cents a day, and being adjusted only twice between then and 1870, the ration allowance soon lost its theretofore existing relationship to food costs.

The Army and Navy Appropriation Acts for 1871 (Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870) and Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §§3–4, 16 Stat. 321, 330–33 (1870)) established a salary system for officers and abolished separate allowances for subsistence or rations. This so-called "salary system" remained in effect until 1922, when subsistence allowances again became a separate part of officers' compensation.

The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub, L. No. 67-235, §5, 42 Stat. 625, 628 (1922), reestablished the subsistence allowance for officers at a rate of 60 cents a day. Officers without dependents were entitled to one subsistence allowance; those with dependents were, with a minor exception, entitled to either two or three allowances, depending on grade. The purpose of the extra allowances was to help defray the food expenses of the officer's family. Married officers in junior or senior grades received an extra allowance and those in middle grades two extra allowances regardless of actual family size, on the premise that family expenses were greater during the middle state of an officer's career and less both before and after. The period from 1922 until 1949, when extra allowances for officers' dependents were ended, was the only time in the history of subsistence allowances that an additional sum has been payable expressly to help defray the food costs of a member's dependents.

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §302, 63 Stat. 802, 812 (1949), replaced the officer subsistence allowance of the Joint Service Pay Readjustment Act of 1922, ch. 212, *id.*, with an allowance called the "basic allowance for subsistence" (BAS).[2] In contrast to the preexisting subsistence allowance, only one rate of BAS was authorized for officers, and this amount was payable to all officers regardless of dependency status or pay grade. As enunciated in testimony delivered on behalf of the Department of Defense by the Deputy Chief of Naval Operations (Personnel), who was then serving as Chairman of the Pay Committee of the Armed Services Personnel Board, the purpose of providing a BAS allowance was to provide subsistence for the officer himself, not for his dependents:

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[1] Officers holding the grade of lieutenant general, which sometimes did and sometimes did not exist during this period, were authorized 40 rations.

[2] Section 301 of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §301, 63 Stat. 802, 812 (1949), was initially classified to 37 U.S.C. §251. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat 451 (1962), the BAS provisions were codified at 37 U.S.C. §402 (76 Stat. 470). See 37 U.S.C. §402.

The officer would receive $42 a month to subsist himself regardless of his rank, pay grade, or state of dependency.[3]

Despite the clarity of this testimony, however, an additional theoretical underpinning for officer BAS was advanced in testimony delivered by the Deputy Director of the Personnel and Administrative Division, U.S. Army, and also a member of the Pay Committee of the Armed Services Personnel Board, who stated:

> We are not paying an officer for what he eats, we are paying the officer for the unusual expenses he is put to in his service, because his condition continuously changes. With the enlisted man, we are giving him a subsistence allowance. . . .
>
> The justification of the ration allowance for an officer is not to compensate him for completely subsisting himself, but to pay him over the years for unusual expense—the extra expense—that he is put to throughout the career in his occupation.[4]

No documentation has, however, been found to support this "unusual expense" theory. Even the name, "basic allowance for subsistence," argues against the unusual expense theory. Nor does the theory receive any support in the recommendations made to the Secretary of Defense in 1948 by the Advisory Commission on Service Pay (the so-called "Hook Commission"), which recommendations led to the introduction and enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), the basic source of present BAS authority.

Under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802, 812 (1949), officer BAS rates of $42 a month were established in 1949 and subsequently raised, through legislation, to $47.88 a month in 1952. These rates were further increased, again legislatively, to $50.52 in 1974 and $53.05 in 1975, when all cash elements of regular military compensation (RMC),[5] which includes BAS, were increased proportionately with increases in General Schedule salaries of federal Civil Service employees. As a result of the relative inflexibility of this legislative BAS adjustment mechanism, officer BAS quickly lost most of whatever relationship it originally had to food costs, whether those of the officer himself or of the government.

In contrast to the shifting and not wholly clear basis underlying the authority for paying a subsistence allowance to officers, the government has always taken the position that it is obligated to provide subsistence for enlisted personnel or, if subsistence in kind is not furnished, to provide them with a cash substitute. Legislative authority for BAS for enlisted personnel, including the authority currently in effect, has reflected that understanding. The rate of the most common form of enlisted BAS—commuted and leave rations—was fixed at $1.05 a day by the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §301(e), 63 Stat. 802, 812 (1949). In 1951 and 1952, the Secretary of Defense was authorized by annual appropriation acts to adjust the commuted ration rate administratively to approximate the raw food cost of daily rations. Such authority was made permanent by the Act of August 1, 1953, ch. 305, Pub. L. No. 83-179, §617, 67 Stat. 336, 352 (1953).

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[3] *Career Compensation Act of 1949: Hearings on H.R. 5007 before the Senate Armed Services Committee*, 81st Cong., 1st sess., 252 (1949) (testimony of Admiral Fechteler, U.S.N., Deputy Chief of Naval Operations for Personnel).

[4] *Career Compensation for the Uniformed Forces: Hearings on H.R. 2553 before a Subcommittee of the House Armed Services Committee*, 81st Cong., 1st sess., 1665 and 1666 (1949) (testimony of General Dahlquist, U.S.A., Deputy Director of Personnel and Administration).

[5] "Regular military compensation," also known as "RMC," is currently defined as basic pay, BAH, BAS, overseas housing allowance, and the federal tax advantage deriving from the nontaxable status of all the allowances. 37 U.S.C. §101(25). (For further background on the development of "regular military compensation" as an operational pay construct and why overseas housing allowance is now included within the RMC construct, see Chapter II.B., "Regular Military Compensation (RMC) and Basic Military Compensation (BMC)," Chapter II.B.1., "Basic Pay," and Chapter II.B.2., "Basic Allowance for Housing," above. In particular, see footnote 63 to Chapter II.B.2., "Basic Allowance for Housing," above.)

The Act of December 16, 1967, Pub. L. No. 90-207, §8, 81 Stat. 649, 654 (1967), provided that whenever the General Schedule of compensation for federal classified employees was increased, a comparable increase was to be effected in the regular military compensation (RMC) of military personnel. The use of RMC—which at the time consisted of basic pay, basic allowance for quarters, basic allowance for subsistence, and the federal tax advantage deriving from the nontaxable status of those allowances[6]—as the base for determining comparable increases between military and General Schedule pay raises had the effect of imputing an increase in all four of these elements of military compensation each time a comparable General Schedule increase occurred. However, since the entire increase had traditionally been allocated only to basic pay, the increases in the BAQ, BAS, and tax advantage elements were implicit only. [For coverage of the other components of the RMC and its impact, see Chapter II.B., "Regular Military Compensation (RMC) and Basic Military Compensation (BMC)" and Chapter II.B.1., "Basic Pay," above, and Chapter II.B.4., "Federal Income Tax Advantage," below.]

The Act of September 19 1974, Pub. L. No. 93-419, §4, 88 Stat. 1152, 1152–1153 (1974), discontinued the method by which the entire military increase was incorporated in basic pay. Instead, under 37 U.S.C. §1009 as added to Title 37, United States Code, by Section 4 of the 1974 Act, Pub. L. No. 93-419, *id*., raises were to be equally distributed among the three cash elements of RMC—namely, basic pay, BAQ, and BAS.[7]

The Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §303, 90 Stat. 923, 925–26 (1976), permitted a further change in the method of distributing military pay increases by authorizing the President to allocate future overall increases among the three cash elements of RMC on other than an equal percentage basis whenever he determined such action to be "in the best interest of the Government." The act provided, however, that the amount allocated to basic pay could not be less than 75 percent of the amount that would have been allocated on an equal percentage allocation basis. The purpose of providing for a discretionary "reallocation" of compensation increases among the three elements of RMC was to enable progressive adjustments to be made to the two basic allowance elements so that these allowances would, over time, more nearly cover the costs of the items they were originally intended to defray, as well as to provide for more adequate quarters and subsistence allowances in general. Under the act, the President was required to advise Congress regarding any planned reallocation at the earliest practicable time before the effective date of a military pay increase. Furthermore, all allocations of increases among the different elements of RMC were to be assessed in conjunction with quadrennial reviews of military compensation required by 37 U.S.C. §1008(b), and a full report was to be made to Congress summarizing the objectives and results of those allocations.[8]

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[6] See footnote 5 to this chapter, above.

[7] Even today, with RMC defined to include variable housing allowance (VHA) and overseas housing allowance (OHA or SHA), pay raises are distributed only among basic pay, BAS, and BAQ. See footnote 5 to this chapter together with references there cited and 37 U.S.C. §1009. (Assuming that VHA or SHA is authorized for a given locale, the amount of VHA or SHA a specific member is entitled to depends, among other things, on prevailing housing costs in that locale. For this reason, VHA and SHA rates do not necessarily increase when there is a general pay raise.)

[8] The Act of August 21, 1965, Pub. L. No. 89-132, §2, 79 Stat. 545, 546–47 (1965), adopted a special provision, codified at 37 U.S.C. §1008, requiring the President to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system. Pursuant to Section 2(a) of the act, *id*., as codified at 37 U.S.C. §1008(b), the first such review was to be undertaken "[w]henever the President considers it appropriate, but in no event later than January 1, 1967." In the House and Senate reports on the bill, H.R. 9075, 89th Cong., 1st sess. (1965), the required presidential review was referred to as a "quadrennial review ... of military compensation." See H.R. Rep. No. 89-549 (Committee on Armed Services), at 1 and 50, and S. Rep. No. 89-544 (Committee on Armed Services), at 1, accompanying H.R. 9075, 89th Cong., 1st sess. (1965). The 10 reviews of military compensation that have been completed under the direction of 37 U.S.C. §1008(b) have been referred to, successively, as the First, Second, Third,

After several years experience with the adjustment mechanisms incorporated in the Act of September 19, 1974, Pub. L. No. 93-419, *id*., and the Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, *id*., Congress effectively preempted them by legislatively mandating a 10-percent increase in BAS, effective September 1, 1980, in the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §7, 94 Stat. 1123, 1128 (1980). The increase was adopted, essentially over the objections of the Carter administration,[9] to bring the level of the allowance into closer alignment with food costs.[10] [11]

In 1981 Congress again suspended the pay-adjustment mechanism incorporated in 37 U.S.C. §1009 and further legislatively increased BAS. In the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §101(b)(2), 95 Stat. 989, 992 (1981), BAS rates were increased by 14.3 percent—with a similar increase in BAQ and a 10- to 17-percent increase in basic pay, depending on pay grade—to "restore, in current dollars, the relative relationship of military compensation to pay in the private sector that existed in 1972" when Congress adopted the "all-volunteer force" construct as the manning principle for the armed services.[12] In short, Congress felt it necessary to increase the three cash elements of RMC—namely, basic pay, BAS, and BAQ—to restore lost purchasing power and thereby improve retention and manning objectives in the armed services.[13]

Under 37 U.S.C. §402 and the BAS rates effective January 1, 1996, commissioned and warrant officers were entitled to basic allowance for subsistence at the rate of $149.67 per month. At the same time, enlisted personnel entitled to BAS received $10.67 a day when assigned to duty under emergency conditions where government messing facilities were not available, $8.06 a day when rations in kind were not available, and $7.15 a day when authorized to mess separately (commuted rations) or while on leave (leave rations).[14] [15] Having been legislatively adjusted over the years, these rates, like officer BAS rates, bore little relationship to the cost of food.

In 1996 BAS rates continued to be lower for enlisted members in pay grade E-1 with less than four months of service. Those personnel were entitled to basic allowance for subsistence in the amount of $6.59

Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Quadrennial Review of Military Compensation, respectively. The First Quadrennial Review was convened in 1966, the Tenth Quadrennial Review of Military Compensation, in 2008.

[9] See, e.g., *Hearings on H.R. 5168, H.R. 7626, and S. 1454 before the Military Compensation Subcommittee of the House Committee on Armed Services*: *Miscellaneous Military Personnel Management and Military Compensation Legislation*, House Armed Services Committee Document No. 96-64, 96th Cong., 2d sess., 55 (1980).

[10] *Hearings on H.R. 5168, H.R. 7626, and S. 1454 before the Military Compensation Subcommittee of the House Committee on Armed Services*: *Miscellaneous Military Personnel Management and Military Compensation Legislation*, House Armed Services Committee Document No. 96-64, 96th Cong., 2d sess., 55 (1980).

[11] The September 1, 1980, 10-percent increase in BAS rates effected by the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §7, 94 Stat. 1123, 1128 (1980), was followed on October 1 by an 11.7-percent across-the-board increase in basic pay, BAS, and BAQ—expressly made subject to the President's reallocation authority contained in 37 U.S.C. §1009(c)(1)—by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §801(b), 94 Stat. 1077, 1090–1091 (1980). (The Military Personnel and Compensation Amendments of 1980 and the 1981 Authorization Act were both enacted on September 8, 1980, with an effective date of September 1, 1980, for the increases authorized by the Personnel and Compensation Amendments and an effective date of October 1, 1980, for the increases authorized by the 1981 Authorization Act.)

[12] See e.g., H.R. Rep. No. 97-109 (Committee on Armed Services), at 1 and 4, accompanying H.R. 3380, and S. Rep. No. 97-146 (Committee on Armed Services), at 2 and 3, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[13] For a more detailed description of the reasons underlying adoption of the increase in all three cash elements of RMC in the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, 95 Stat. 989 (1981), see discussion of that act in Chapter II.B.1., "Basic Pay," above.

[14] The corresponding rates for personnel in pay grad E-1 with less than four months of service were $9.86, $7.42, and $6.59, respectively.

[15] See Part III, "Basic Allowance for Subsistence," of the schedule attached to Executive Order 12990 of February 29, 1996, 60 Fed. Reg. 8467 (March 5, 1996), set out as notes under 5 U.S.C.A. §5332 and 37 U.S.C.A. §1009) (see also Section 1 of Executive Order 12990, *id*., 60 Fed. Reg. at 8467).

per day when on leave or when authorized to mess separately, to $7.43 per day when rations in-kind were not available, and to $9.86 per day when assigned to duty under emergency conditions where no messing facilities of the United States were available.

Like housing allowances, the basic allowance for subsistence was separated from the yearly adjustment mechanism of §1009 in the late 1990s. The last year in which §1009 was the fundamental guide for yearly BAS adjustments was 1997. (In most years between 1984 and 1997, Congress waived the automatic computation called for by §1009[16] and instead legislated a percentage increase.)[17] The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1771 (1997), established a new formula for the Department of Defense to determine the BAS. The BAS reform came in response to strong congressional sentiment that some members of the armed forces were not being adequately remunerated for their day-to-day costs of living. For example, an amendment proposed in the Senate Armed Services Committee to Senate Bill 936 (the Senate version of the National Defense Authorization Act for Fiscal Year 1998) was accompanied by this observation:

> Several studies have documented significant instances of members of the Armed Forces and their families relying on various forms of income support under programs of the Federal Government….under the Food Stamp Act of 1977….and under section 17 of the Child Nutrition Act of 1966….
>
> Because of this situation, the amendment called for a Department of Defense study including:
>
> An analysis of potential solutions for mitigating or eliminating the need for members of the Armed Forces and their families to subsist at, near, or below the poverty level, including potential solutions involving changes in the systems and rates of basic allowances for subsistence….

The new plan established by Pub. L. No. 105-85 moved enlisted members from a daily to a monthly payment schedule, ending a disparity between officer and enlisted payment calculations that had existed since enactment of the Career Compensation Act of 1949. However, the starting points for determining the BAS of enlisted and officer personnel remained different under the 1998 reform. Enlisted BAS amounts in a given year were to be based on Department of Agriculture average food cost figures in effect the previous October

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[16] See Executive Order 12387, 47 Fed. Reg. 44981 (October 8, 1982).

[17] For 1984, the adjustment was effected by Section 901 of the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §901, 97 Stat. 614, 634–35 (1983); for 1985, by Section 601 of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §601, 98 Stat. 2492, 2533 (1984); for 1986, by Section 601 of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §601, 99 Stat. 583, 635–36 (1985); for 1987, by Section 601 of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §601(a) and (b), 100 Stat. 3816, 3873 (1986); for 1988, by Section 601(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §601(b), 101 Stat. 1019, 1092 (1987), as amended by Section 110(b) of the Act of December 22, 1987 (Continuing Appropriations for Fiscal Year 1988), Pub. L. No. 100-202, §110(b), 101 Stat. 1329, 1329–1436 (1987); for 1989, by Section 601(b) of the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §601(b), 102 Stat. 1918, 1976 (1988); for 1990, by Section 601(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, 601(b), 103 Stat. 1352, 1444 (1989); for 1991, by Section 601(b) of the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §601(b), 104 Stat. 1485, 1575 (1990); for 1992, by Section 601(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §601(b), 105 Stat. 1290, 1372 (1991); for 1993, by Section 601(b) of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §601(b), 106 Stat. 2315, 2420 (1992); for 1994, by Section 601(b) of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §601(b), 107 Stat. 1547, 1677 (1993); for 1995, by Section 601(b) of the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §601(b), 108 Stat. 2663, 2779 (1994); for 1996, by Section 601(b) of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §601(b), 110 Stat. 186, 356 (1996); and for 1997, by Section 601(b) of the National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2538 (1996).

1. The enlisted BAS was to be an amount halfway between the monthly cost of a "moderate-cost food plan" and the monthly cost of a "liberal food plan" for a male in the United States between ages 20 and 50, as established by the Department of Agriculture. The officer BAS was to be based on the rate in effect for officers when the new legislation went into effect, then increased yearly by the same percentage as that by which the enlisted BAS increased. However, the 1998 legislation limited this yearly increase to 1 percent for both enlisted and officer personnel. The 1998 law also made it possible for enlisted personnel on temporary assignment away from their permanent duty station to receive full BAS allotments.

The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat.1654A-144 (2000), changed the formula for the enlisted BAS. Because officers' annual increase rates remained the same as those for enlisted personnel, this change had the same effect for both categories. Under the revised formula, beginning January 1, 2002, monthly BAS rates were to be adjusted at the beginning of every calendar year by the same percentage as that by which the Department of Agriculture estimated that the cost of a "liberal food plan" for a male age 20 to 50 had increased over the previous year. In other words, the increase would match the national inflation rate for food. By eliminating the 1-percent stipulation, this change made possible substantially larger annual increases. The 2001 legislation also brought the BAS rates of enlisted personnel with less than four months of service equal with those of all other enlisted personnel, rectifying an inequality in the 1998 law.

Noting that more than 6,000 members still were depending on food stamps for subsistence,[18] Congress provided a BAS supplement, the Family Subsistence Supplemental Allowance (FSSA), for targeted personnel in the National Defense Authorization Act for Fiscal Year 2001. That provision was encoded in 37 U.S.C. 402a. The supplement would raise the subsistence allowance of a member with dependents who was eligible to receive food stamps, to the point where food stamps no longer were necessary, as long as the monthly payment did not exceed $500. A member's eligibility for food stamps would be determined by the standards of the Food Stamp Act of 1977 (7 U.S.C. 201(c)), taking into consideration the amount of BAH for which the member was eligible by virtue of grade, location, and dependency status. The BAH amount would be considered whether or not the member was receiving such an allowance by virtue of not living in government quarters. The supplement would be curtailed by a promotion, permanent change of station, or after payment had been made for 12 consecutive months.

The Food, Conservation, and Energy Act of 2008 changed the name of the Food Stamp Program to Supplemental Nutrition Assistance Program (SNAP).[19] The National Defense Authorization Act for Fiscal Year 2010 increased the maximum monthly SNAP benefit to $1,100 from $500.[20] The National Defense Authorization Act for Fiscal Year 2012 eliminated the requirement that the Secretary of Defense submit a report to Congress regarding the number of members who received SNAP benefits.[21] Per the sunset provision in the National Defense Authorization Act for Fiscal Year 2016, supplemental subsistence benefits will no longer be available to service members after September 30, 2016, unless they are serving outside the United States, Puerto Rico, the U.S. Virgin Islands, or Guam. The sunset provision was based on the final report of the Military Compensation and Retirement Modernization Commission.[22]

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[18] See, for example, H.R. Rep. No. 106-616 (House Armed Services Committee), at 375, accompanying H.R. 5408, 106th Cong., 2d sess. (2000).

[19] Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title IV, Subtitle A, Sec. 4002, 122 Stat.1651,1853 (2008).

[20] National Defense Authorization Act for Fiscal Year 2010, Pub. L. 111-84, Title VI, Subtitle A, Sec. 602, 123 Stat. 2190, 2347 (2009).

[21] National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112-81, Title VI, Subtitle G, Sec. 661, 125 Stat. 1298, 1467.

[22] National Defense Authorization Act for Fiscal Year 2016, Pub. L. 114-92, Title VI, Subtitle A, Sec. 602, 129 Stat. 726, 836 (2015); U.S. House of Representatives, Committee on Armed Services, "Legislative Text and Joint Explanatory Statement to Accompany S. 1356, Pub. L. 114-92," Committee Print No. 2, 673 (2015).

The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2566 (2002), provided that enlisted members assigned government quarters not containing or served by an adequate messing facility receive a BAS twice the amount called for by the standard formula. This legislation refined the language of the National Defense Authorization Act for Fiscal Year 2001, which had authorized payment of amounts higher than those called for by the legislative formula in cases where messing facilities were not available to enlisted personnel. The legislation for 2001, however, had set as a maximum the highest rate that had been available to enlisted personnel in previous years.

Among its comments on the National Defense Authorization Act for Fiscal Year 2003, the House Armed Services Committee expressed reservations about the equity of the BAS system and suggested that another reform might be useful:

> Based on the type of deployment and service-unique policies, some service members receive their full BAS while others serving at the same duty location receive only a portion of their BAS. While the committee remains committed to resolving such inequities, this concern has prompted the committee to question the larger issue of whether BAS continues to be a useful management tool. It occurs to the committee that the services would benefit from eliminating the administrative burden and structure associated with managing BAS and integrating the value of the allowance into basic pay for all personnel.[23]

Despite the concerns expressed by the Armed Services Committee, as of 2009, Congress had made no further reforms in the BAS.

In summary, both officer and enlisted subsistence allowances were at first intended to be a cash equivalent of the approximate raw food cost to the government of feeding its military personnel. Such equivalency did not long survive except with respect to enlisted commuted and leave ration allowances. A 1974 change in the law abandoned even this last remaining link between government food costs and subsistence allowances in favor of an annual increase in BAS rates under the adjustment mechanism found in 37 U.S.C. §1009. In the 1990s, Congress began to express a stronger concern that the level of BAS more nearly reflect food costs, and by 1997 the linkage with §1009 had ended. Congressional comments early in the 21st century indicated that additional revisions could be expected to follow the significant changes made in the BAS in legislation of 1998 and 2001.

Current rates: Officer and enlisted BAS rates and authorities from 1997 through 2016 are listed immediately below.

Officer Monthly Basic Allowance for Subsistence (BAS) Rates, 1997–2016

Date	With Dependents	Without Dependents
1-Jan-1997	154.16	154.16
1-Jan-1998	155.70	155.70
1-Jan-1999	157.26	157.26
1-Jan-2000	158.83	158.83
1-Jan-2001	160.42	160.42
1-Jan-2002	166.37	166.37
1-Jan-2003	167.20	167.20
1-Jan-2004	175.23	175.23
1-Jan-2005	183.99	183.99
1-Jan-2006	187.49	187.49
1-Jan-2007	192.74	192.74

[23] H.R. Rep. No. 107-436 (Armed Services Committee), at 316, accompanying HR 4546, 107th Cong., 2d sess. (2002).

Date	With Dependents	Without Dependents
1-Jan-2008	202.76	202.76
1-Jan-2009	223.04	223.04
1-Jan-2010	223.04	223.04
1-Jan-2011	223.84	223.84
1-Jan-2012	239.96	239.96
1-Jan-2013	242.60	242.60
1-Jan-2014	246.24	246.24
1-Jan-2015	253.38	253.38
1-Jan-2016	253.63	253.63

Starting January 1, 2002, BAS changed to a monthly rate and will increase annually based on increases to the U.S. Department of Agriculture food costs index.

Beginning on January 1, 2002, all enlisted members get full BAS, but pay for their meals (including those provided by the government). This is the culmination of the BAS Reform transition period.

Source: Department of Defense, OUSD (P&R), Directorate of Compensation, *Selected Military Compensation Tables (Greenbooks), 2009–16*.

Enlisted Basic Allowance for Subsistence

Authority	Effective Date	Fiscal Year	E-1 Less than 4 Months	All Other Enlisted Members
104-201	23-Sep-1996	1-Jan-1997	7.36 (E-1<4 Mo) 6.79	7.36
105-85	18-Nov-1997	1-Jan-1998	7.43 (E-1<4 Mo) 6.86	7.43
105-85	18-Nov-1997	1-Jan-1999	7.50 (E-1<4 Mo) 6.93	7.5
105-85	18-Nov-1997	1-Jan-2000	7.58 (E-1<4 Mo) 7.00	7.58
105-85	18-Nov-1997	1-Jan-2001	7.66 (E-1<4 Mo) 7.07	7.66
106-398	30-Oct-2000	1-Jan-2002	241.60	262.50
106-398	30-Oct-2000	1-Jan-2003	242.81	262.50
106-398	30-Oct-2000	1-Jan-2004	254.46	262.50
106-398	30-Oct-2000	1-Jan-2005	267.18	267.18
106-398	30-Oct-2000	1-Jan-2006	272.26	272.26
106-398	30-Oct-2000	1-Jan-2007	279.88	279.88
106-398	30-Oct-2000	1-Jan-2008	294.43	294.43
106-398	30-Oct-2000	1-Jan-2009	323.87	323.87
106-398	30-Oct-2000	1-Jan-2010	323.87	323.87
106-398	30-Oct-2000	1-Jan-2011	325.04	325.04
106-398	30-Oct-2000	1-Jan-2012	348.44	348.44
106-398	30-Oct-2000	1-Jan-2013	352.27	352.27
106-398	30-Oct-2000	1-Jan-2014	357.55	357.55
106-398	30-Oct-2000	1-Jan-2015	367.92	367.92
106-398	30-Oct-2000	1-Jan-2016	368.29	368.29

Cost: For the cost of basic subsistence allowances from 1972 to 2009, see table II-3, below.

Source: Department of Defense, OUSD (P&R), Directorate of Compensation, *Selected Military Compensation Tables (Greenbooks)*, 2009–16.

Table II-3. Annual Cost of Basic Allowance for Subsistence, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	1,461,627	$835,568	356,626	$204,920	1,105,001	$630,648
1973	1,404,180	826,150	329,134	188,99?	1,072,406	637,160
1974	1,344,678	935,551	309,464	177,807	1,035,214	757,744
1975	1,326,007	1,076,717	296,592	177,608	1,029,415	800,109
1976	1,302,520	1,117,593	284,066	178,669	1,018,454	938,924
1977	1,273,734	1,159,270	277,795	188,380	995,939	970,890
1978	1,263,762	1,229,032	273,594	195,446	990,168	1,033,586
1979	1,249,709	1,283,503	271,740	204,783	977,969	1,078,720
1980	1,244,080	1,381,598	274,098	222,911	969,982	1,158,687
1981	1,250,328	1,684,598	280,722	278,184	969,606	1,406,414
1982	1,335,313	2,060,447	288,268	326,515	1,047,045	1,733,932

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1983	1,386,112	2,226,193	294,324	346,725	1,091,788	1,879,468
1984	1,415,585	2,349,205	300,676	364,850	1,114,909	1,984,355
1985	1,447,412	2,490,976	305,301	385,269	1,142,111	2,105,707
1986	1,453,442	2,600,047	310,008	406,867	1,143,434	2,193,180
1987	1,453,293	2,658,277	310,620	416,824	1,142,673	2,241,453
1988	1.436,393	2,697,697	306,934	421,129	1,129,459	2,276,568
1989	1,427,246	2,767,333	303,617	432,154	1,123,629	2,355,179
1990	1,422,382	2,862,115	301,020	444,295	1,121,362	2,417,820
1991	1,373,527	2,862,722	310,734	476,693	1,062,793	2,386,029
1992	1,350,404	2,950,152	285,863	456,607	1,064,541	2,493,545
1993	1,219,051	2,764,450	264,710	438,146	954,341	2,326,304
1994	1,158,683	2,689,619	252,134	428,690	906,549	2,260,929
1995	1,105,154	2,633,886	241,805	422,202	863,349	2,211,684
1996	1,069,289	2,618,697	236,610	423,275	832,679	2,195,422
1997	1,027,288	2,567,040	231,633	423,326	795,655	2,143,714
1998	1,260,848	2,612,901	227,216	423,252	1,033,632	2,189,649
1999	1,226,893	2,640,726	222,341	418,414	1,004,552	2,222,312
2000	1,212,663	2,653,816	219,373	417,722	993,290	2,236,094
2001	1,216,404	2,846,403	218,038	419,713	998,366	2,426,690
2002	1,256,915	2,405,841	231,689	461,398	1,025,226	1,944,443
2003	1,428,022	3,221,312	251,309	488,708	1,176,713	2,732,604
2004	1,385,575	3,271,449	251,991	530,819	1,133,584	2,740,630
2005	1,426,459	3,654,912	250,400	545,527	1,176,059	3,109,385
2006	1,226,672	3,485,371	245,441	551,173	981,231	2,934,198
2007	2,161,365	3,713,468	242,847	530,651	1,918,518	3,182,817
2008	1,303,580	3,950,759	236,489	589,201	1,067,091	3,361,558
2009	1,415,002	4,411,081	249,366	648,132	1,165,636	3,762,949
2010	1,425,805	4,589,514	255,681	678,216	1,170,124	3,911,298
2011	1,408,475	4,577,431	257,100	690,976	1,151,375	3,886,455
2012	1,359,465	4,608,861	255,663	722,728	1,103,802	3,886,133
2013	1,256,855	4,516,732	251,636	729,253	1,005,219	3,787,479
2014	1,288,972	4,465,649	247,975	728,535	1,040,997	3,737,114
2015	1,218,169	4,298,791	241,347	723,594	976,822	3,575,197
2016[1]	1,172,080	4,145,575	232,857	746,285	939,223	3,437,035

[1]Estimate.

Note: Starting in 1998, the number of BAS recipients includes Partial BAS.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.B.4.
Federal Income Tax Advantage

Legal Basis: *Jones v. United States*, 60 Ct.Cl. 552 (1925); Section 134 of the Internal Revenue Code of 1986, 26 U.S.C. §134; 37 U.S.C. §101(25).

Purpose: The federal income tax advantage attributed to members of the armed forces derives from the non-taxable status of the basic allowance for subsistence (BAS) and basic and overseas housing allowances (BAH and OHA, respectively), and Congress's determination that those allowances be treated as part of regular military compensation, along with basic pay. The origin of the tax advantage attributed to military personnel can be traced to a 1925 decision of the United States Court of Claims that held that neither the provision of certain items in kind to armed forces personnel, nor the payment of an allowance in commutation thereof, was subject to federal income taxation under a remote precursor of the present-day Internal Revenue Code.[1] With the subsequent extension of the rationale underlying this decision both to other items provided in kind and to allowances paid in lieu thereof, the tax advantage is appropriately seen as a more or less incidental by-product of the way Congress has chosen to pay military personnel—namely, the pay plus non-taxable allowances system of military compensation.

Background: The first federal income-tax law adopted as the Act of August 5, 1861, ch. 45, §§49–58, 12 Stat. 292, 309–13 (1861), was enacted to help finance the Civil War. Until then, customs receipts and, to a lesser extent, funds from the sale of public lands had provided by far the greatest portion of federal government revenues. With the advent of the war, however, more revenue was needed than could be provided from then-standard sources, and the federal government adopted an income tax to meet its revenue needs. Tax rates under the act were graduated by source of income and residence of the taxpayer—3 percent of income over $800 for U.S. residents and 5 percent for citizens living abroad, subject to a limit of 1.5 percent on income from government securities.[2]

The Act of July 1, 1862, ch. 119, §§86–93, 12 Stat. 432, 472–75 (1862), extended the income tax provisions adopted in the Act of August 5, 1861, ch. 45, *id*., and effectively increased the tax income of the United States by making a "duty of three per centum" payable on incomes exceeding $600.[3] Section 86 of the 1862 Act, ch. 119, §86, *id*., 12 Stat. 472, specifically provided that the "duty" should be "levied, collected, and paid on all salaries of officers, or payments to persons in the civil, military, naval, or other employment of the United States." Thus, although the Act of August 5, 1861, ch. 45, *id*., had been interpreted to apply to members of the military and naval establishments of the United States, the Act of July 1, 1862, ch. 119, *id*., became the first congressional enactment to specifically provide for taxation of members of the military and naval establishments of the United States. The Civil War income-tax measures were, despite several intervening amendments and extensions, allowed to expire in 1872.

From 1873 until 1913, customs receipts were the primary source of federal revenue, though excise taxes on liquor and tobacco became increasingly important. The Act of August 27, 1894, ch. 349, §§27–31, 28 Stat. 509, 553–56 (1894), did, however, impose another—albeit short-lived—individual income tax. This tax resulted more from the "populist" political movement than from pressing financial need and was primarily a sectional victory of the South and Middle West over the Northeast. In *Pollock v. Farmers' Loan and Trust Company*, 157 U.S. 429 (1895), the Supreme Court held that, to the extent the act taxed income from real estate, it was unconstitutional. The Supreme Court divided equally (one justice not sitting) on the broader issue of the validity of income taxes in general. On rehearing, *Pollock v. Farmers' Loan and Trust Company*,

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[1] The Internal Revenue Code of 1986, classified to Title 26, United States Code.

[2] The Confederacy also had an income tax, which carried higher rates but produced a lower yield than that of the Union.

[3] The Act of August 5, 1861, ch. 45, §49, 12 Stat. 292, 309 (1861), spoke in terms of a "tax" on incomes exceeding $800 per year, whereas the Act of July 1, 1862, ch. 119, §§86 and 90, 12 Stat. 432, 472–73 (1862), spoke in terms of a "duty" on incomes exceeding $600 per year. The purpose of the distinction in terminology—"tax" as opposed to "duty"—was nowhere made clear.

158 U.S. 601 (1895), it decided, on a five-to-four division,[4] that none of the income taxes of the 1894 law met the test of constitutionality.

After the *Pollock* decisions, *supra*, income-tax advocates successfully pressed for a constitutional amendment as a means of reviving an income tax. The Sixteenth Amendment, which gives Congress the "power to lay and collect taxes on incomes, from whatever source derived," became effective on February 25, 1913, having been ratified by three-fourths of the states.[5] Shortly thereafter, the Act of October 3, 1913, ch. 16, Pub. L. No. 63-16, Sec. II, 38 Stat. 114, 166–81 (1913), levied another individual income tax.[6] Income taxes have been on the national stage ever since.

From their secondary revenue role of the early years, income taxes have evolved into an engine of national taxation that directly affects nearly everyone who earns money from labor or capital and indirectly affects the rest of the populace. Through the process of amendment and reenactment, the relatively simple tax law of 1913 has evolved into the extraordinarily complex and lengthy tax law—the Internal Revenue Code of 1986[7]—of today. Having grown from 15 pages in 1913, the code currently takes up more than 1,000 pages of Title 26, United States Code, together with several thousand additional pages of regulations. The early tax, with its primitive rate graduation, has been refined into a "progressive" tax, with the now familiar tax "brackets."

When income-tax rates began to soar during World War II, the old method of waiting until March 15 of each year to collect the tax was shelved by the Current Tax Payment Act of 1943, ch. 120, Pub. L. No. 78-68, §2(a), 57 Stat. 126, 126–39 (1943).[8] This law, which established a collection system that is still in effect, put wage and salary earners on a current withholding basis of tax collections.[9] The withholding system is buttressed by a requirement that certain taxpayers estimate their tax for the current year and pay in quarterly installments any estimated tax not covered by withholding.

As previously indicated, the Act of July 1, 1862, ch. 119, §86, 12 Stat. 432, 472 (1862), specifically provided for a "duty of three per centum" to be "levied, collected, and paid on all salaries of officers, or payments [the sum of which exceeded $600 per year] to persons in the civil, military, naval, or other employment of the United States," and this language was employed in the succession of Civil War tax acts that were in effect before 1872. The Act of August 27, 1894, ch. 349, §27, 28 Stat. 509, 553 (1894), similarly provided that an income tax was to be "levied, collected, and paid on all salaries of officers, or payments to persons in the civil, military, naval, or other employment of the United States." Under the express language of these enactments, the question of the tax treatment of military pay and allowances was resolved in favor of taxing all "payments" received by military and naval officers, including payments, if any, received in

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[4] The "swing" vote did not come from the justice who had not participated in the first action. One of the justices who had originally upheld the constitutionality of the income tax reversed himself.

[5] Ratification of the Sixteenth Amendment was completed by the thirty-sixth of the 48 states then belonging to the United States on February 3, 1913—thereby meeting the requirement of Article V of the U.S. Constitution that three-quarters of the states ratify an amendment before it become effective—but the Secretary of State did not issue a proclamation declaring ratification until February 25, 1913.

[6] The income-tax provision was a rider to a tariff bill, which President Wilson allowed to become law without his signature.

[7] The Internal Revenue Code of 1954 as "heretofore, hereby, or hereafter amended" was redesignated as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, Pub. L. No. 99-514, §2(a), 100 Stat. 2085, 2095 (1986).

[8] The filing date for individual taxpayers was extended to April 15 by the Internal Revenue Code of 1954, and this situation still obtains under the Internal Revenue Code of 1986.

[9] There was no individual income- tax withholding from 1916 to 1943. Tax laws before 1916 did require withholding-at-source; however, unlike the modern system with periodic withholding based on an assumed constant level of income throughout the year, withholding under the old laws occurred only when an individual had income in excess of the exempt amount specified in the tax law.

commutation of quarters, subsistence, and the like.[10] Construing the language of the Act of August 27, 1894, ch. 349, *id*., and applicable Treasury Regulations thereunder in the context of mileage and quarters commutations paid to Army officers, an 1895 opinion of the Attorney General dealt with the question as follows:

> ... [P]aymasters and disbursing officers shall deduct the 2 per cent [income tax imposed by the Act of August 27, 1894, ch. 349, *id*.] "from *all salaries and payments of every kind* made in money to officers or other persons in the civil, military, naval, and any other employment in the service of the United States upon the excess of said salaries over the rate of $4,000 per annum."
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> . . .
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> ... [C]ommutation moneys received by an officer are to be added to other income (including a salary of $4,000 or less) in order to ascertain the total income, the excess of which over $4,000 is subject to a tax of 2 per cent.[11]

This opinion was effectively mooted when the Supreme Court declared the Act of August 27, 1894, ch. 349, *id*., unconstitutional in *Pollock v. Farmers' Loan and Trust Company*, 158 U.S. 601 (1895), *supra*.

With adoption of the Sixteenth Amendment to the Constitution, which expressly sanctioned federal income taxation, and the subsequent enactment of an income tax in the Act of October 3, 1913, ch. 16, Pub. L. No. 63-16, Sec. II, 38 Stat. 114, 166–81 (1913),[12] and various later revenue enactments, the question again arose as to the proper tax treatment of quarters, subsistence, and other commutations. The Treasury Department took the position that the Treasury Regulations adopted under the Act of August 27, 1894, ch. 349, *id*., effectively governed the question, and that the rental value of quarters, the value of subsistence provided in kind, and monetary commutations thereof should be included in the income on which income taxes were to be paid.

In 1925 the United States Court of Claims had occasion to address the question and reached a decision contrary to that taken by the Treasury Department. In a case involving an Army major named Clifford Jones, the Court of Claims pointed out that the controlling language of the Revenue Act of 1921, ch. 136, Pub L. No. 67-98, §213(a), 42 Stat. 227, 237–38 (1921), which governed Major Jones's case, differed significantly from that of the Act of August 27, 1894, ch. 349, *id*., on which the Treasury Regulations[13] were based. Under the Revenue Act of 1921, ch. 136, §213(a), *id*., the term "gross income" was defined to include

> ... gains, profits, and income derived from salaries, wages, or compensation for personal service (including in the case of ... all other officers and employees, whether elected or appointed, of the United States ... the compensation received as such) of whatever kind and in whatever form paid....

In Major Jones's case, the direct issue under review was whether an officer was required to include as income subject to taxation the fair rental value of government quarters furnished him in kind during part of a

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[10] In this connection, however, it should be recalled that the Army and Navy Appropriation Acts for 1871 (Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870) and Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §§3–4, 16 Stat. 321, 330–33 (1870)) prescribed annual "pay" rates for officers of the Army and Navy, respectively, which rates, in the case of Army officers, were provided to be "in full of all commutation of quarters, fuel, forage, servants' wages and clothing, longevity rations, and all allowances of every name and nature whatsoever" [Army Appropriation Act of 1871, *id*., §24, 16 Stat. 320], and, in the case of Navy officers, were provided to be their "full and entire compensation" with "no additional allowance" being permitted "on any account whatever" [Navy Appropriation Act of 1871, *id*., §4, 16 Stat. 332]. See text accompanying footnotes 3 and 4 to Chapter II.B.1., "Basic Pay," above.

[11] 21 Op.Att'y Gen. 112, 113–14 (1895).

[12] See footnotes 5 and 6 and accompanying text to this chapter, above.

[13] Quoted in the text accompanying footnote 11 to this chapter, above.

tax year and/or the cash rental allowances he received for the part of the year he did not occupy public quarters. The Court of Claims held that, within the meaning of the income-tax law, neither the provision of government quarters nor the commutation thereof was an allowance of a "compensatory" character, with the result that neither was "gross income" subject to taxation [*Jones v. United States*, 60 Ct.Cl. 552 (1925)].

In reaching this decision, the Court of Claims drew a fundamental distinction between "pay" and "allowances" in the military compensation system created by Congress.[14] The Court of Claims held that, while "pay" was income of a "compensatory" character, "allowances" were not. Analogizing quarters and quarters allowances provided to members of the armed services to reimbursements of various expenses authorized for members of the executive and legislative branches of the government, the Court of Claims stated:

> ... Clearly such allowances [paid to members of the executive and legislative branches] are for purposes of reimbursement .... It is not even suggested that allowances of this character are compensation. In what respect, then, is the allowance of public quarters or commutation of quarters to an Army officer different in character from one [an allowance] intended as a reimbursement? We are quite firmly convinced that not only are they not allowances of a compensatory character, but they are not income as well. It is common knowledge that the President of the United States receives as compensation $75,000 per annum. The compensation of Federal judges is their fixed annual salary. Generally, and almost without exception, including the Army and Navy, the Federal statutes fix a certain specified pay for each employee or officer of the Government, known as his compensation. This is a fixed and definite sum annually appropriated for and to which the occupant of the office is by law fully entitled so long as he remains in office, and entitled to whether sick or well, unless separated from the office, and it is this sum, this annual salary, to which Congress and all others refer when they speak of the officer's compensation, and manifestly, unless there is some qualification of the term, some legislative expression that Congress intended to reach out and tax what has continuously and notoriously been regarded as an allowance, distinct from compensation, the just inference is an intent to limit the gross income of the officers mentioned to their pay proper, their fixed compensation. We have said we do not believe the allowance of quarters or commutation thereof to an officer of the Army is income [*Jones v. United States, id.*, 60 Ct.Cl. at 567–68].

In view of this distinction, the *Jones* case, although it specifically dealt only with quarters allowances, served as a precedent for the exemption of other military allowances from taxation. In particular, at least in part in reliance on the *Jones* case, the Treasury Department subsequently adopted regulations under Section 61 of the Internal Revenue Code of 1954, 26 U.S.C. §61 (1982), that specifically excluded both basic allowance for quarters and basic allowance for subsistence from inclusion within an individual's "gross income," with the ultimate result that federal income tax was not imposed upon either allowance, whether received as a cash payment or as an in-kind benefit.[15] Later still, Congress, in the Tax Reform Act of 1986,

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[14] When Title 37, United States Code, "Pay and Allowances of the Uniformed Services," was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), Congress arguably followed the Court of Claims decision in the Jones case in adopting the following definition of "pay," which is presently codified at 37 U.S.C. §101(21): "The term 'pay' includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances."

[15] Section 61 of the Internal Revenue Code of 1954 and 1986, I.R.C. §61, 26 U.S.C. §61, deals with the definition of "gross income," and the Tax Regulations in issue—adopted under authority of the Internal Revenue Code of 1954—excluded basic allowance for quarters and basic allowance for subsistence, among other things, from the definition of "gross income," with the obvious result that they were tax-exempt. See, e.g., Section 1.61-2(b) of the Federal Income Tax Regulations, 26 C.F.R. §1.61–2(b), as in effect under the Internal Revenue Code of 1954 prior to the redesignation of the Internal Revenue Code of 1954 as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, Pub. L. No. 99-514, §2(a), 100 Stat. 2085, 2095 (1986).

Pub. L. No. 99-514, §1168(a), 100 Stat. 2085, 2512 (1986), specifically excluded "any qualified military benefit"—including basic allowance for quarters and basic allowance for subsistence, among other military benefits—from inclusion within "gross income."[16] [17] [18] The Heroes Earnings Assistance and Relief Tax Act of

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[16] In Section 1168(a) of the Tax Reform Act of 1986, Pub. L. No. 99-514, §1168(a), 100 Stat. 2085, 2512 (1986), Congress added a new provision to the Internal Revenue Code—classified to Section 134 of the Internal Revenue Code of 1986, I.R.C. §134, 26 U.S.C. §134—that specifically excluded "any qualified military benefit" from inclusion in "gross income." The term, "qualified military benefit," was in turn defined as:

... any allowance or in-kind benefit which—

A. is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of the uniformed services, and

B. was excludable from gross income on September 8, 1986, under any provision of law or regulation thereunder which was in effect on such date….

As clarified by the relevant congressional report—which, because of its overall importance to the general topic of military compensation, is quoted *in extenso* immediately hereafter—basic allowance for quarters and basic allowance for subsistence were included within the class of "qualified military benefit[s]":

The conferees believe that rules for the tax treatment of military benefits should be consolidated and set forth in one statutory provision. This will better enable taxpayers and the IRS [Internal Revenue Service] to understand and administer the tax rules. Also, consolidation of these rules will make clear the intent of the conferees that, consistent with the treatment of benefits generally in the Tax Reform Act of 1984, any benefits for military personnel that are not expressly excluded under the new provision or under other statutory provisions of the Code (*e.g*., sec. 132) are includible in gross income. The provision does not alter the definition of wages for withholding tax purposes.

The conference agreement excludes from income benefits which were authorized by law on September 9, 1986, and which were excludable from income on such date. Benefits are excludable only to the extent of the amount authorized and excludable on September 9, 1986, except that adjustments may be made pursuant to a provision of law or regulation in effect on September 9, 1986, if the adjustments are determined by reference to fluctuations in cost, price, currency or other similar index.

The conferees understand that the allowances which were authorized on September 9, 1986, and excludable from gross income on such date are limited to the following: veteran's benefits authorized under 28 U.S.C. [*sic*] sec. 3101; medical benefits authorized under 50 U.S.C. sec. 2005 or 10 U.S.C. secs. 1071–1083; combat-zone compensation and combat-related benefits authorized under 37 U.S.C. sec. 310; disability benefits authorized under 10 U.S.C. chapter 61; professional education authorized under 10 U.S.C. secs. 203, 205, or 141; moving and storage authorized under 37 U.S.C. secs. 404–12; group term life insurance authorized under 38 U.S.C. secs. 404–12 [should read 38 U.S.C. secs. 765–79?]; premiums for survivor and retirement protection plans authorized under 10 U.S.C. secs. 1445–1447; mustering out payments authorized under 10 U.S.C. sec.771a(b)(3); subsistence allowances authorized under 37 U.S.C. secs. 209, 402; uniform allowances authorized under 37 U.S.C. secs. 415–18; housing allowances authorized under 37 U.S.C. secs. 403, 403a, or 405; overseas cost-of-living allowances authorized under 37 U.S.C. sec. 405; evacuation allowances authorized under 37 U.S.C. sec. 405a; family separation allowances authorized under 37 U.S.C. sec. 427; death gratuities authorized under 10 U.S.C. secs. 1475–1480; interment allowances authorized under 10 U.S.C. secs.1481–1482; travel for consecutive overseas tours authorized under 37 U.S.C. sec. 411; emergency assistance authorized under 10 U.S.C. sec. 133 and 37 U.S.C. chapter 1; family counseling services authorized under 10 U.S.C. sec. 133; defense counsel authorized under 10 U.S.C. secs. 133, 801–940, or 1181–1187; burial and death services authorized under 10 U.S.C. secs. 1481–1482; educational assistance authorized under 10 U.S.C. [sec.] 141 and 37 U.S.C. secs. 203, 209; dependent education authorized under 20 U.S.C. sec. 921 and 10 U.S.C. sec. 7204; dental care for military dependents authorized under 10 U.S.C. secs. 1074 or 1078; temporary lodging in conjunction with certain orders authorized under 37 U.S.C. sec. 404a; travel to a designated place in conjunction with reassignment in a dependent-restricted status authorized under 37 U.S.C. sec. 406; travel in lieu of moving dependents during ship overhaul or inactivation authorized under 37 U.S.C. sec. 406b; annual round trip for dependent students authorized under 37 U.S.C. sec. 430; travel for consecutive overseas tours (dependents) authorized under 37 U.S.C. sec. 411b; and travel of dependents to a burial site authorized under 37 U.S.C. sec. 411f.

The conferees intend this list to be an exhaustive list of the allowances excludable under the new provision. The list is not intended, however, to limit benefits which are excludable under another section of the Code. Further, the conferees understand that there may be benefits which may have been unintentionally omitted from the list. Accordingly, the

2008, P.L. 110-245, expanded the definition of "qualified military benefit" to include "any bonus payment by a State or political subdivision thereof to any member or former member of the uniformed services of the United States or any dependent of such member only by reason of such member's service in a combat zone."[19]

Whatever the basis for the exclusion of the basic allowances for quarters and subsistence from inclusion within "gross income," it is this exclusion that intellectually underlies the creation of the so-called "federal income tax advantage" and its attribution, as an element of military compensation, to individual members of the uniformed services. Conceptually, an individual service member's "tax advantage" is the added amount of taxable income the member would have to receive in cash if his or her quarters and subsistence allowances were suddenly to become subject to federal income taxation in order for the service member to be as well off in after-federal-tax income as under the existing system of taxable pay and non-taxable allowances.[20]

Until 1948, the tax advantage, as thus understood, was of relatively minor significance to any individual member of the uniformed services. Before World War II, tax rates and the level of military pay and

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Secretary of the Treasury is authorized to expand the list if the Secretary finds that a benefit should have been included, i.e., that the benefit is a cash or reimbursement benefit which was authorized on September 9, 1986, and excludable from income on such date. Except as provided in the preceding sentence, the Secretary of the Treasury may not, by regulation or otherwise, expand the definition of excludable military benefits.

See H.R. Rep. No. 99-841 (Committee of Conference), Vol. II, at II-548 and II-549, accompanying H.R. 3838, 99th Cong., 2d sess. (1986).

[17] The Tax Reform Act of 1986, Pub. L. No. 99-514, §144, 100 Stat. 2085, 2121 (1986), also dealt with another tax issue affecting the basic allowance for quarters. In 1983 the Internal Revenue Service ruled that a minister could not deduct mortgage interest and property taxes on an owned home if the minister received a parsonage allowance that was excludable from gross income under Section 107 of the Internal Revenue Code. Rev. Rul. 83-3, 1983-1 C.B. 72. The ruling was based on former Section 265(1) of the Internal Revenue Code of 1954, now Section 265(a)(1) of the Internal Revenue Code of 1986, I.R.C. §265(a)(1), 26 U.S.C. §265(a)(1), which disallows deductions for expenses allocable to tax-exempt income. Based on that provision, the IRS took the position that a minister who bought rather than rented a home while receiving a tax-exempt parsonage rental allowances was precluded from deducting at least some portion of home ownership expenses—including home-mortgage interest and property taxes—on the grounds that such home ownership expenses were properly allocable to a tax-exempt parsonage allowance. In 1984, the Internal Revenue Service proposed extending the effect of the ruling regarding parsonage allowances to military personnel receiving quarters allowances who also sought to deduct mortgage interest and property taxes on their owner-occupied homes. Congress, in the Tax Reform Act of 1986, Pub. L. No. 99-514, §§144 and 151(e), 100 Stat. 2085, 2121 (1986), retroactively amended the Internal Revenue Code specifically to provide that ministers receiving excludable parsonage allowances and uniformed services personnel receiving excludable quarters allowances are not precluded from deducting mortgage interest and property taxes on their residences [Internal Revenue Code of 1986, I.R.C. §265(a)(6), 26 U.S.C. §265(a)(6)]. In discussing the provision in question, Congress specifically characterized "military housing allowances" as "excludable" from income for federal income tax purposes [H.R. Rep. No. 99-841 (Committee of Conference), Vol. II, at II-23, accompanying H.R. 3838, 99th Cong., 2d sess. (1986)], although as indicated in footnote 16 and its accompanying text, *supra*, basic allowance for quarters was, among other allowances and benefits, including basic allowance for subsistence, specifically excluded from gross income by the same act.

[18] Since the cost-of-living allowance for the continental United States (CONUS COLA) authorized by the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §602(a)(1), 108 Stat. 2663, 2779–2781 (1994), and codified at 37 U.S.C. §403b, was adopted well after enactment of Section 134 of the Internal Revenue Code, CONUS COLA should not gain treatment as a "qualified military benefit," with the result that, unlike most other allowances, it should be fully taxable. See footnote 16 hereof, above.

[19] Heroes Earnings Assistance and Relief Tax Act of 2008, Pub. L. No. 110-245, Title I, Sec. 112, 122 Stat. 1624, 1635 (2008).

[20] This understanding of "tax advantage" does not take into account the additional amount of taxable income a member would have to receive to leave him as well off in terms of after-tax income if, in addition to having to pay federal income tax on the additional amount of such income, the member also had to pay Social Security tax, i.e., old-age, survivors, and disability insurance (OASDI) and health insurance (HI) taxes, and state income tax on that additional income.

allowances were such that most military personnel would have had to pay little or no income tax even if their quarters and subsistence allowances had been included within the category of taxable income. From 1941 through 1947, even though tax rates rose and military pay and allowances increased, the financial advantage flowing from the tax-exempt status of quarters and subsistence allowances was effectively negated for enlisted personnel and substantially diminished for officers by "emergency" tax-relief legislation that excluded from income subject to taxation the entire annual military compensation of enlisted members and $1,500 of the annual compensation of officers.

Although the federal income tax advantage had existed in fact since 1925, had become significant in 1948, and had become increasingly more important with each succeeding increase in basic pay,[21] allowances,[22] or tax rates,[23] it was first given formal congressional recognition in connection with the Act of August 21, 1965 (Uniformed Services Pay Act of 1965), Pub. L. No. 89-132, 79 Stat. 545 (1965). The House Armed Services Committee in its report on the pay increase effected by that Act stated:

> After determination was made of the level of pay (including allowances) considered appropriate for each military grade, account was taken of ... the amount of the Federal income tax advantage (using 1965 tax rates) on the basic allowances for quarters and subsistence. The importance of this step is that it would set out "in the record" the actual amounts by which military pay scales are lowered because of ... the tax-free status of the basic allowances for quarters and subsistence.[24]

Documentation of the federal income tax advantage in the legislative history of the 1965 pay bill was followed by its formal incorporation into law. The Act of December 16, 1967, Pub. L. No. 90-207, §1, 81 Stat. 649, 649–50 (1967), provided that whenever the General Schedule of compensation for federal classified employees—i.e., civil servants—was increased, a comparable increase was to be effected in the basic pay of members of the armed forces. The law required that the comparable increase be determined by equating "regular military compensation," or "RMC," to General Schedule salaries. RMC was, in turn, defined as basic pay plus quarters and subsistence allowances (whether provided in cash or in-kind), together with the tax

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[21] For historical data on basic pay rates by pay grade and longevity step dating to as early as 1922, see the schedules of basic pay accompanying Chapter II.B.1 hereof, "Basic Pay," above.

[22] For historical data on basic allowance for quarters and basic allowance for subsistence rates dating to as early as 1922, see the schedules of basic allowance for quarters and basic allowance for subsistence rates accompanying Chapters II.B.2 and II.B.3 hereof, "Basic Allowance for Housing" and "Basic Allowance for Subsistence," respectively, above.

[23] Whenever tax rates change, a member's "tax advantage" changes also. Assuming no concomitant change in rates of pay, an increase in tax rates causes an increase in the tax advantage attributed to individual members of the armed forces, with a resulting increase in a member's "regular military compensation," or "RMC"—and this despite the fact that, because of the tax increase, the member's after-tax income will decrease. Conversely, a decrease in tax rates causes a decrease in the tax advantage, and hence RMC—although a member's after-tax income will increase. In short, whether for good or bad, a change in tax rates affects the level of a member's "regular military compensation." With respect to the most important recent tax legislation adopted by Congress, the tax rate reductions associated with the Tax Reform Act of 1986, Pub. L. No. 99-514, §101, 100 Stat. 2085, 2096–2099 (1986), see H.R. Rep. No. 99-841 (Committee of Conference), Vol. II, at II-1 through II-5, accompanying H.R. 3838, 99th Cong., 2d sess. (1986), generally had the effect of decreasing the tax advantage attributed to individual members of the uniformed services, with a resulting decrease in their "regular military compensation." In this connection, see the table titled "Annualized Tax Advantage" at the end of this chapter, which shows a decrease in the aggregate tax advantage attributed to all members of the armed forces for years immediately following adoption of the Tax Reform Act in 1986—especially 1987 and 1988, when aggregate "formal" tax advantage for members of the armed forces declined significantly while membership remained nearly constant. (For a discussion of "regular military compensation," or "RMC," its statutory derivation, and what it consists of, see Chapter II.B., "Regular Military Compensation (RMC) and Basic Military Compensation (BMC)," hereof, above.)

[24] H.R. Rep. No. 549 (Committee on Armed Services), at 24, accompanying H.R. 9075, 89th Cong., 1st sess. (1965). Parenthetically, it may be noted that this statement by the House Armed Services Committee amounts to the first unequivocal congressional recognition of—and, arguably, acquiescence in—the treatment of quarters and subsistence allowances as tax-free allowances. In this same connection, however, also see footnote 14 to this chapter, above.

advantage deriving from, and attributable to, the non-taxable status of the allowances.[25] This use of the federal tax advantage as one of the elements for determining comparable increases between civilian and military pay raises continued until 1974.

The Act of September 19, 1974, Pub. L. No. 93-419, §4, 88 Stat. 1152, 1152–1153 (1974), while retaining the principle of military pay raises linked to Civil Service increases, required that military raises be distributed to basic pay, BAQ, and BAS, each of which was to be increased by the same percentage as General Schedule salaries. Under the changes to the pay adjustment mechanism adopted in Pub. L. No. 93-419, therefore, the federal income tax advantage was not taken into account in calculating the amount of any given military pay increase. Despite changing the way the amount of any military pay increase was to be computed, this change in the law did not, of course, eliminate the tax advantage imputed to members of the armed services because of the non-taxable status of quarters and subsistence allowances; individual members still benefited from the tax-exempt status of these items of compensation, just as they had under the preceding adjustment mechanism, but now not only because the increase in basic pay rates resulted in military personnel being moved into higher tax brackets, but also because part of the raise went into non-taxable allowances. In addition to changing the mechanism by which the various elements of military pay were to be adjusted, Pub. L. No. 93-419, *id*., §1, 88 Stat. 1152, added Section 101(25) to Title 37, United States Code, formally defining RMC, albeit somewhat awkwardly:

> "[R]egular compensation" or "regular military compensation (RMC)" means the total of the following elements that a member of a uniformed service accrues or receives, directly or indirectly, in cash or in kind every payday: basic pay, basic allowance for quarters, basic allowance for subsistence; and Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax.[26] [27]

As noted earlier, the "federal income tax advantage" is, conceptually, the additional amount of taxable income a member of the uniformed services would have to receive under given tax rates,[28] in a system in which cash and in-kind housing and subsistence allowances were fully taxable, to produce the same after-federal-income-tax regular military compensation as the member receives under the present system of military compensation in which housing and subsistence allowances are tax-exempt. As may be expected, a great many factors can influence any given member's actual tax advantage—including, for example, filing status (married, single, head of household, etc.), additional family income, number of dependents, and so forth as set

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[25] For a more complete discussion of "regular military compensation," its statutory incorporation into Title 37, United States Code, and its role in structuring pay increases since 1965, see Chapter II.B., "Regular Military Compensation (RMC) and Basic Military Compensation (BMC)," hereof, above.

[26] This definition was amended in 1980 by Section 11 of the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §11, 94 Stat. 3359, 3368–3369 (1980), by the insertion of the parenthetical phrase "(including any variable housing allowance or station housing allowance)" after "basic allowance for quarters." As explained in the relevant congressional report, this change in the definition of RMC was made to "insure that these [variable and station housing] allowances are included in the information on Regular Military Compensation presented to the Congress each year." S. Rep. No. 96-1051 (Committee on Armed Services), at 8, accompanying H.R. 7626, 96th Cong., 2d sess. (1980). The Senate report noted, however, that the change in the definition "will not affect the pay received by any Service member," *id*. To the extent that variable and station housing allowances (the latter also referred to as "overseas" housing allowance), both of which are non-taxable, are included in the RMC attributed to individual service members, however, the effect of the amendment to the definition is to increase the federal income-tax advantage attributed to such members, and hence their RMCs, above the level of the additional cash payments received in hand on account of such allowances, with an obvious potential effect on comparisons between military and civilian pay scales.

[27] Although subject to legal debate, it could be argued that this amendment to Section 101 of Title 37, United States Code, statutorily codified the tax-free status of quarters and subsistence allowances and that the subsequent amendment to 37 U.S.C. §101(25) made by the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §11, 94 Stat 3359, 3368–3369 (1980), as referred to in the preceding footnote, similarly codified the tax-free status of variable and station housing allowances.

[28] See footnote 22 to this chapter, above.

out more fully below. In practice, the number of factors is simply too great—in addition in many instances to being too non-reflective of relevant military and personal characteristics on which Congress has determined that military pay should be premised—to be of any practical benefit in determining the aggregate tax advantage accruing to members of the armed forces. For that reason, certain simplifying assumptions have been employed to enable the calculation to be made at all. The resultant construct—termed the "formal" tax advantage—takes into account only a few of the factors relevant to determining an individual's "true" tax advantage. For the purposes of calculating the "formal" tax advantage accruing to differently situated members of the uniformed services, the following factors are taken into account:

1. the member's basic pay, which in turn depends on pay grade and length of service;
2. whether the member receives housing and subsistence in cash or in kind, and the value thereof, respectively;
3. the number of the member's personal tax exemptions; and
4. the member's marital status.

(The range and average of the "formal" federal income-tax advantage by pay grade is set out following the "cost" discussion below.)

This "formal" tax advantage, reflecting the narrow range of tax characteristics deemed relevant for purposes of the computation, is in practice quantified using the following simplifying assumptions: basic pay is a member's sole source of taxable income; the member takes the "standard" deduction on his or her tax return, i.e., the member does not "itemize" deductions; if married, the member files a joint return and the member's spouse has no income; if unmarried, the member does not qualify as a head of household and is entitled to an income-tax exemption for him- or herself only. While arguably necessary to permit the tax advantage to be quantified in the large, the assumptions abstract from reality so significantly as to vitiate the calculation for the vast majority of affected service members. Indeed, whenever any one of the assumptions is invalid for a particular individual, the "formal" tax advantage attributed to the member does not in fact measure the "true" tax advantage accruing as a result of the tax-exempt status of quarters and subsistence allowances. A member's "true" federal income tax advantage in fact depends on such factors as:

1. whether the member receives any taxable pays in addition to basic pay, such as incentive or special pay, proficiency pay, sea or foreign duty pay, reenlistment bonus, etc.;
2. whether the member has income from nonmilitary sources, no matter whether earned or unearned (interest, dividends, capital gains, net rental income, income from secondary employment, etc.);
3. the member's tax-filing status (single, married filing jointly, married filing separately, unmarried head of household);
4. whether the member's spouse (if the member has a spouse) receives income in his or her own right, no matter whether earned or unearned;
5. whether the member claims the standard deduction for federal income-tax purposes or itemizes deductions and, if the latter, the amount of such itemized deductions; and
6. whether the member is entitled to a tax exclusion not related to the tax advantage, such as the combat-zone exclusion.

Other things being equal, the "true" tax advantage accruing to a member of the armed services is greater than the "formal" tax advantage imputed in the standard calculation to the extent that (i) the member receives taxable pay in addition to basic pay, (ii) the member has additional earned or unearned income, such as interest, dividends, capital gains, net rental income, income from secondary employment, and the like, (iii) the member's spouse, if any, has earned or unearned income subject to federal income taxation; on the other hand, the member's "true" tax advantage is less than the "formal" tax advantage to the extent that (i) the

member itemizes deductions exceeding the standard deduction otherwise allowed—including such common deductions as mortgage interest payments, state and local income and property taxes, alimony payments, etc.,[29] (ii) the member is entitled to tax exclusions of one sort or another, e.g., the combat-zone tax exclusion.[30]

Because of the open-ended nature of the factors that control the determination of a member's "true" tax advantage, its range may vary widely. Only by coincidence is the "formal" tax advantage the same for any two individual members—even for members with such identical military characteristics as pay grade, years of service, hazardous-duty-incentive- or special-pay statuses, etc. Even more rarely, if ever, is the "true" tax advantage the same for such members.

Finally, it should be emphasized that, as currently defined by statute, i.e., 37 U.S.C. §101(25), the amount of "tax advantage" attributed to members of the uniformed services is based on federal income tax effects only. It does not take into account any additional Social Security tax, i.e., the sum of old-age, survivors, and disability insurance (OASDI) tax and health insurance (HI) tax, on the one hand, or state and local income taxes, on the other hand, that service members would almost certainly have to pay if their "tax advantage" were monetized. If the basic allowances for housing and subsistence were suddenly to become taxable for federal income-tax purposes, they would almost certainly become part of the "income" upon which Social Security taxes, i.e., OASDI and HI, are imposed under IRC §3101(a) and (b), 26 U.S.C. §3101(a) and (b) (dealing, respectively, with OASDI taxes, on the one hand, and HI taxes, on the other), and state and local income taxes are imposed under the income-tax laws of the various states. If this were in fact the way monetization of the "tax advantage" were treated by federal and state governments, service members would have to be given an additional amount, over and above the "tax advantage" currently attributed to them, to leave them as well off in terms of after-tax income as they currently are.

Cost: The federal income tax advantage—conceptually, the added amount of income subject to federal income tax a member of the uniformed services would have to receive to leave the member with the same after-tax income as under the present system of pay and non-taxable allowances if the member's present non-taxable allowances were suddenly to become taxable—is not paid to any member of the uniformed services in cash. As such, it is not a cost item in the federal budget for the Department of Defense. Any "cost" to the government arising out of the tax advantage attributed to members of the uniformed services is in the nature of an "opportunity cost," reflecting the loss to the federal treasury of revenue that would be collected if military quarters and subsistence, whether provided in cash or in kind, were subject to income taxation.[31]

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[29] In the Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. 2085 (1986), Congress repealed the deductions for state and local sales taxes, *id*., §134, 100 Stat. 2116, and for interest (except for mortgage interest), id., §511(b), 100 Stat. 2246–2248. Other things being equal, the repeal of a provision allowing a deduction has the effect of increasing taxable income, i.e., the "income" on which federal income tax is assessed, which in turn has the effect of increasing an individual's "true" federal income tax advantage. For reasons previously given, however—namely, the assumption that members of the uniformed services take the standard deduction—repeal of these deductions has no effect on the "formal" tax advantage imputed to individual members of the uniformed services.

[30] See Section 112 of the Internal Revenue Code, 26 U.S.C. §112, "Certain combat pay of members of the Armed Forces," included in Part III, "Items Specifically Excluded from Gross Income," of Subchapter B, "Computation of Taxable Income," of the Internal Revenue Code.

[31] The amount of such "cost," or revenue loss, to the government is less than the aggregate "formal" tax advantage attributed to members of the uniformed services. That is, if the government were simply to make quarters and subsistence allowances taxable without providing any additional offsetting income with which to pay the taxes resulting from such action, the additional amount of tax collected would be less than that collected if additional taxable income—measured by the tax advantage—were provided in moving to a system of taxable pay plus allowances. Moreover, if the allowances for quarters and subsistence were made taxable without providing additional income with which to pay the increased taxes due and owing, members of the uniformed services would suffer a decrease in after-tax income. On the other hand, if additional income were provided so as to leave members of the uniformed services with the same after-tax income, the government would stand neither to gain nor lose revenue as a result, and the net effect, both for the government and members of the armed services, would be a wash. (In practice, of course, taking into account all of the

Because of the wide range of individual circumstances confronting members of the uniformed services that also affect the amount or "value" of the tax advantage to specific individuals, it is difficult to appraise the "true" tax advantage resulting from the non-taxable status of quarters and subsistence allowances. With the aid of various simplifying assumptions concerning the distribution of certain tax characteristics among members of the armed forces, and discounting certain other real-world complications, aggregate "formal" tax advantage computations can be made. The results of such computations for 1971 to 2016 are set out in table II-4A, below.

Table II-4A. Federal Income Tax Advantage, 1971–2016
Annualized Tax Advantage in $000

Fiscal Year	Total	Officers	Enlisted
1971	874,900	211,900	663,000
1972	1,062,400	276,900	785,500
1973	1,066,700	276,500	790,200
1974	1,075,100	287,200	787,900
1975	1,236,600	305,000	931,600
1976	1,284,400	309,300	975,100
1977	1,392,800	343,800	1,049,000
1978	1,511,400	411,000	1,100,400
1979	1,637,600	452,900	1,184,400
1980	1,783,900	475,200	1,308,700
1981	2,411,200	715,000	1,696,200
1982	3,055,700	963,100	2,092,600
1983	2,988,000	954,900	2,033,100
1984	2,598,700	816,700	1,782,000
1985	2,862,100	913,800	1,948,300
1986	2,973,800	950,000	2,023,800
1987	2,692,501	765,816	1,926,685
1988	2,566,427	695,337	1,871,090
1989	2,685,059	712,656	1,972,403
1990	2,773,694	735,032	2,038,662
1991	2,871,967	766,505	2,105,462
1992	2,386,790	608,390	1,778,400
1993	2,343,370	607,630	1,735,740
1994	2,222,840	580,960	1,641,880
1995	2,164.340	576,720	1,587,620
1996	2,170,050	587,160	1,583,340
1997	2,756,108	777,851	1,978,256
1998	2,730,508	779,020	1,951,488
1999	2,727,088	778,668	1,948,420
Jan-2000	2,858,300	820,875	2,037,424
Jul-2000	2,877,218	838,092	2,039,126

complexities of the tax system and doing away with the simplifying assumptions employed in calculating the "formal" tax advantage imputed to members of the uniformed services, it is unlikely that a decision to tax the allowances in question while at the same time increasing military compensation by the amount of the aggregate "formal" tax advantage would in fact result in a revenue wash.)

Fiscal Year	Total	Officers	Enlisted
Jan-2001	3,212,414	942,288	2,270,126
Jul-2001	3,002,713	923,074	2,079,639
2002	3,355,276	1,044,860	2,310,416
2003	3,537,764	992,880	2,544,884
2004	3,626,793	1,028,754	2,598,039
2005	4,018,341	1,145,403	2,872,938
2006	4,203,577	1,210,378	2,993,199
Jan-2007	4,446,482	1,263,641	3,182,841
Apr-2007	4,441,244	1,259,227	3,182,017
2008	4,547,522	1,271,112	3,276,410
2009	4,848,804	1,315,242	3,532,748
2010	5,216,204	1,489,323	3,726,758
2011	5,264,917	1,526,129	3,739,435
2012	6,462,623	1,603,327	4,860,220
2013	6,576,162	1,654,976	4,921,133
2014	6,706,846	1,694,767	5,011,992
2015	6,601,729	1,661,872	4,939,863
2016	6,602,732	1,665,707	4,937,029

Figures may not add to totals because of rounding.

Source: U.S. Department of Defense, Office of Undersecretary of Defense for Personnel and Readiness, *Compensation Tables Reports (Greenbooks)*, January 1, 2009–16.

Table II-4B. Annual "Formal" Tax Advantage by Pay Grade
(2016 Tax Rates – 1 January 2016 RMC Rates)

PAY GRADE	RANGE OF TAX ADVANTAGE		AVERAGE
	SINGLE	MARRIED	TAX ADVANTAGE
Officers			
0-10	$13,161	$14,322	$14,291
0-9	$13,160	$14,319	$14,302
0-8	$12,161	$13,956	$13,807
0-7	$11,511	$12,941	$12,888
0-6	$11,687	$11,860	$11,849
0-5	$11,115	$10,791	$10,819
0-4	$9,859	$7,841	$8,120
All 0-3	$8,181	$5,168	$6,159
All 0-2	$7,040	$4,266	$5,853
All 0-1	$5,212	$4,607	$5,053
Warrant Officers			
W-5	$10,014	$8,216	$8,328
W-4	$9,033	$6,459	$6,626
W-3	$7,839	$4,774	$4,994
W-2	$7,377	$4,408	$4,712
W-1	$5,872	$4,286	$4,536
Enlisted Personnel			
E-9	$8,821	$6,303	$6,495
E-8	$8,102	$4,830	$5,110
E-7	$7,572	$4,801	$5,093
E-6	$6,616	$5,634	$5,797
E-5	$5,230	$5,719	$5,557
E-4	$3,367	$4,990	$4,068
E-3	$3,416	$4,309	$3,634
E-2	$3,484	$4,007	$3,552
All E-1	$3,204	$3,677	$3,240

Note: Pay grade ranges and averages assume all cash allowances and no variable or station housing allowance. The ranges and averages were determined by reference to the actual distribution of Department of Defense personnel by pay grade and longevity step. Thus, if there were no personnel in, e.g., pay grade 0-8 with less than 2 years of service, the tax advantage associated with the pay and allowances for persons falling within that pay grade/longevity step was not used in determining the range or average tax advantage for that pay grade. Pay grade ranges and averages were computed using 2016 pay and income tax rates.

Source: U.S. Department of Defense, Office of Undersecretary of Defense for Personnel and Readiness, *Selected Military Compensation Tables (Greenbook)*, January 1, 2016, http://militarypay.defense.gov/Portals/3/Documents/Reports/GreenBook_2016.pdf.

Chapter II.B.5. Pay and Allowance Continuation (PAC)

Legislative Authority: 37 U.S.C. § 328, 372

Purpose: To provide continuity of pay and allowances to hospitalized service members during their time spent rehabilitating from wounds, injuries, or illness incurred in a combat operation, combat zone, or hostile-fire event.

Background: Section 642 of the National Defense Authorization Act, Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136 (2006), introduced a temporary special pay for active-duty service members recovering from wounds, injuries, or illness incurred in a combat operation or combat zone. The combat-related injury and rehabilitation pay (CIP) was a stipend of up to $430 per month paid for up to three months to service members during hospitalization or outpatient rehabilitation within the military health-care system. The $430 per month consisted of hostile fire/imminent danger pay (HFP/IDP) of $225, hardship duty pay–location ($100), and the incidental portion of per diem ($105).[1]

The National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Sec.661 replaced CIP with the pay and allowance continuation (PAC) program.[2] The new program, which entered into effect on May 15, 2008, replaced the $430 monthly stipend with a continuation of all pay and allowances (including any bonus, incentive pay, or similar benefit) that were being paid to the member at the time he or she was hospitalized because of a wound, injury, or illness in the line of duty in a combat operation, combat zone, or hostile-fire event. In addition, hospitalized service members may receive a payment of $3.50 per day for incidental travel expenses.[3]

PAC extends for up to 12 months from the date that the service member was first hospitalized for the wound, injury, or illness or until the last day of the month in which the service member is released from the military treatment facility and returned to duty or is discharged, separated, or retired (including temporary disability retirement) from the uniformed services. The law also authorizes the relevant service Secretary to extend PAC beyond 12 months—in six-month increments—on a case-by-case basis for extraordinary circumstances. As with CIP, a service member is eligible for PAC if he or she is medically evacuated as an inpatient in a Military Treatment Facility (MTF) or an outpatient receiving extensive rehabilitation or other medical care.

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[1] Defense Financing and Accounting Service, "Military Pay: Wounded Warrior Pay, Combat-Related Injury and Rehabilitation Pay (CIP),"
http://www.dfas.mil/militarypay/woundedwarriorpay/combat-relatedinjuryrehabilitationpay cip.html.

[2] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle F, Sec. 661, 122 Stat. 3, 176 (2008).

[3] Defense Financing and Accounting Service, "Military Pay: Wounded Warrior Pay, Pay and Allowance Continuation (PAC)," http://www.dfas.mil/militarypay/woundedwarriorpay/pac.html.

Chapter II.C.1.
Overview of Compensation for Non-Regular Service: Reserve Components Pay

Members of the reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, including members of the Army National Guard and the Air National Guard, all receive compensation for the performance of inactive-duty training.[1] [2] Legislative authority for inactive-duty training compensation is set out at 37 U.S.C. §206(a):

> Under regulations prescribed by the Secretary concerned, and to the extent provided for by appropriations, a member of the National Guard or a member of a reserve component of a uniformed service who is not entitled to basic pay under section 204 of this

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[1] The term "inactive-duty training" is defined for compensation purposes at 37 U.S.C. §101(22) to mean:

> (A) duty prescribed for members of a reserve component by the Secretary concerned under section 206 of [Title 37, United States Code] or any other law; or
>
> (B) special additional duties authorized for members of a reserve component by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and includes those duties when performed by members of a reserve component in their status as members of the National Guard, but does not include work or study in connection with a correspondence course of a uniformed service.

(A similar definition of "inactive-duty training"—although one that is not relevant to the grant or receipt of compensation for reserve service under 37 U.S.C. §206—is found at 10 U.S.C. §101(d)(7)):

The term "inactive-duty training" means—

> (A) duty prescribed for Reserves by the Secretary concerned under section 206 of title 37 [United States Code] or any other provision of law; and
>
> (B) special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

Such term includes those duties when performed by Reserves in their status as members of the National Guard.)

[2] Members of the reserve components of the armed forces who are on full-time "active duty," as that term is defined at 37 U.S.C. §101(18), are entitled to compensation that is essentially the same as that authorized for members of the regular components of the armed forces who are on full-time "active duty"—although there are some differences, see, e.g., 37 U.S.C. §302(h) concerning the entitlement of reserve officers who are officers of the Medical Corps of the Army or Navy or who are officers of the Air Force designated as medical officers and who are on active duty under a call or order to active duty for a period of less than one year. Similarly, members of the reserve components who are performing active duty for training also are entitled to compensation, although the form and nature of the compensation and compensation-related benefits to which they are entitled differs to some extent from that authorized for members of the regular components of the armed forces who are on full-time "active duty." Such entitlements include leave accrual, medical care benefits for dependents, and housing allowances. The compensation entitlements of these two groups of reserve members of the armed forces are not the types of compensation entitlements with which this Chapter II.C. of *Military Compensation Background Papers* is concerned. (Exceptions to the differences in treatment outlined above were temporarily authorized with respect to certain compensation elements for reserves called to active duty in connection with Operation Desert Shield/Storm during the Persian Gulf Conflict. See, e.g., Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §304(a), 105 Stat. 75, 81 (1991) ("Reserve health care officers entitled to special pays for medical officers of the armed forces even though not under a call or order to active duty for one year or more"). In this same connection, also see Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, *id*., §303, 105 Stat. 81 ("Variable housing allowance entitlement for reserves called to active duty"); §309, 105 Stat. 83 ("Accrued leave entitlements of members, including reserves, who die while on active duty"); §310A, 105 Stat. 84 ("Basic allowance for quarters entitlements for certain members of reserve components without dependents called to active duty".)

> title [dealing generally with the basic pay entitlements of members of the uniformed services on active duty[3]], is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay—
>
> (1) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday;
>
> (2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe; or
>
> (3) for a regular period of instruction that the member is scheduled to perform but is unable to perform because of physical disability resulting from an injury, illness, or disease incurred or aggravated—
>
> (A) in line of duty while performing—
>
> (i) active duty; or
>
> (ii) inactive-duty training;
>
> (B) while traveling directly to or from that duty or training (unless such injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member).
>
> (C) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, between successive periods of inactive-duty training, at or in the vicinity of the site of inactive-duty training.

Such personnel may also be entitled to receive special and incentive pays or attraction and retention pays of one sort or another for the performance of inactive-duty training.

The entitlement of reserve forces personnel to inactive-duty training pay as authorized by 37 U.S.C. §206 is covered in Chapter II.C.2., "Compensation for Inactive-Duty Training," below. Entitlement to special and incentive pays and attraction and retention pays is covered in Chapters II.D. and II.E., respectively, of *Military Compensation Background Papers: Compensation Elements and Related Manpower Cost Items—Their Purposes and Legislative Backgrounds*, below.

The principles and concepts of military compensation developed in Chapter I of *Military Compensation Background Papers* apply to the compensation of reserve forces personnel as well as to the compensation of active-duty forces personnel. As a general proposition, the fundamental purpose underlying the reserve force structure is to have a pre-trained force that is capable of augmenting the active-duty forces of the United States during time of war or national emergency. To meet this purpose, the reserve-force compensation system must exemplify the compensation principles of effectiveness, in the sense of working equally well in time of peace as well as war, and equity. It must also support the interrelationship between the manpower requirements of the armed forces and national defense objectives.

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[3] For the purposes of Title 37, United States Code, the term "active duty" is defined as meaning:

> . . . full-time duty in the active service of a uniformed service, and includes full-time training duty, annual training duty, full-time National Guard duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary concerned [37 U.S.C. §101(18)].

Chapter II.C.2.
Compensation for Inactive-Duty Training

Legislative Authority: 37 U.S.C. §206.

Purpose: To provide a special pay as an incentive for qualified personnel to enter and remain in the reserve components of the military services of the United States, and to encourage them to maintain and improve their military skills through regular training or distributed learning activities in order to provide a pool of skilled, trained, and readily available manpower to augment active-duty forces in times of national emergency.

Background: The origin of inactive-duty training pay[1] can be traced to the militia system of the American colonies, incorporated into federal law in the Act of May 8, 1792 (Militia Act of 1792), ch. 33, 1 Stat. 271 (1792), "establishing an Uniform Militia throughout the United States."[2] [3] Under that act, all free, able-bodied, white male citizens between the ages of 18 and 45 were effectively enrolled in the militia at their place of residence and were required to furnish their own arms, ammunition, and accoutrements, and to appear, properly armed and equipped, whenever called out to exercise or into service. A companion Act of May 2, 1792, ch. 28, §4, 1 Stat. 264 (1792), provided for militiamen "employed in the service of the United States" to receive the same pay and allowances as troops of the United States; however, it made no provision

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[1] Technically, members of the reserve components participating in inactive-duty training are entitled to "compensation" under 37 U.S.C. §206(a)(1) and (2), respectively, for "each regular period of instruction, or period of appropriate duty" in which they are engaged for at least two hours or "for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. In common usage, these various duties for which members of reserve components are entitled to "compensation" under 37 U.S.C. §206 are referred to as "inactive-duty training," and the "compensation" to which such members are entitled is referred to as "inactive-duty training pay." That usage is followed here.

[2] The term "inactive-duty training" is defined for compensation purposes at 37 U.S.C. §101(22) to mean:

(A) duty prescribed for members of a reserve component by the Secretary concerned under section 206 of [Title 37, United States Code] or any other law; or

(B) special additional duties authorized for members of a reserve component by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned;

and includes those duties when performed by members of a reserve component in their status as members of the National Guard, but (except as provided in section 206(d)(2) of this title) does not include work or study in connection with a correspondence course of a uniformed service.

A similar definition of "inactive-duty training"—although one that is not relevant to the grant or receipt of compensation for reserve service under 37 U.S.C. §206—is found at 10 U.S.C. §101(d)(7)):

The term "inactive-duty training" means—

(A) duty prescribed for Reserves by the Secretary concerned under section 206 of title 37 [United States Code] or any other provision of law; and

(B) special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

Such term includes those duties when performed by Reserves in their status as members of the National Guard.)

[3] Under federal law, the "militia of the United States"

consists of all able-bodied males at least 17 years of age and ... under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States and of female citizens of the United States who are members of the National Guard. See 10 U.S.C. §311(a).

for pay for those "called out to exercise."[4] The act also stipulated that, when mobilized for federal service, the militia could not be compelled to serve for more than three months in any one year [see Act of May 2, 1792, ch. 28, *id*.]. This provision remained in effect until changed in July 1861 in response to the departure of some "3-months' men" immediately before, during, and shortly after the first Battle of Bull Run.[5]

The original acts gave the militia the dual mission, which it retains, of serving as state defense forces and of augmenting the regular forces of the United States in time of emergency. The militia system was refined by the Militia Act of 1903, also known as the Dick Act, ch. 196, Pub. L. No. 57-33, §1, 32 Stat. 775 (1903), which two classes of militia—the organized militia, thenceforth to be known as the National Guard (a title that had been in general use for many years, though not recognized in federal law), and the reserve militia, composed of all other similar forces that were not a part of the National Guard.[6] The act began the process of federalizing the militia by authorizing federal financial assistance for the National Guard of the several states and by requiring that each state, in order to qualify for these funds, (1) organize, arm, and equip its National Guard in the same fashion as prescribed for the regular army, (2) maintain at least 100 active militia for each of its senators and representatives in Congress, (3) conduct practice marches or camps of instruction for its Guard units for five consecutive days each year, (4) assemble its Guard units at armories for drill and instruction or target practice not less than 24 times each year, and (5) ensure that each of its Guard units be inspected by an officer of the regular army or the organized militia at least once a year.

The Militia Act of 1903 allowed the states to use their allotted federal funds for the payment, subsistence, and transportation of National Guard members who engaged in actual field or camp service, and provided that National Guardsmen who participated in encampments, maneuvers, or field instruction with the Regular Army were to receive the same pay and allowances as officers and men of the Army, to be paid from Army appropriations. It did not, however, authorize the use of federal funds for armory drill pay. In a different vein, the act limited to nine months the period for which the National Guard could be called to federal service.

The Act of May 27, 1908, an amendment to the Militia Act of 1903, ch. 204, Pub. L. No. 60-145, §4, 35 Stat. 399, 400 (1908), removed the nine-month limitation on federal service by the National Guard and instead permitted the President to call up the Guard for any specified period, subject to the condition that no individual guardsman could be held to service beyond the term of his existing commission or enlistment. The amendment of 1908 also provided that the National Guard could be required to serve "either within or without the territory of the United States." Subsequently, the Attorney General concluded that the service of state militia outside the United States would be unconstitutional except under very limited circumstances, such as pursuit across the border after repelling an invasion.[7] It was under this theory that the national guards of the states of Arizona, New Mexico, and Texas, and later of other states, were called into federal service and deployed near the Mexican border in 1916.

The National Defense Act of 1916, ch. 134, Pub. L. No. 64-85, §111, 39 Stat. 166, 211 (1916), empowered the President, when authorized by Congress, to "draft into the military service of the United States ... any or all members of the National Guard." In response to the emergency created by World War I, the President was given sole "draft" authority—within the meaning of the National Defense Act of 1916, *id*.—by the Army Conscription Act of 1917, ch. 15, Pub. L. No. 65-12, §§1 and 2, 40 Stat. 76, 76–78 (1917). In litigation involving this latter act, it was held that the "draft" of the National Guard did not constitute a call-up of the militia and, although National Guard designations and other identifications could continue to

[4] Being "called out to exercise" evidently fell short of being "employed in the service of the United States."
[5] Act of July 29, 1861, ch. 25, §3, 12 Stat. 281, 282 (1861).
[6] At present, there are two classes of militia—the "organized militia," which consists of the National Guard and the Naval Militia, and the "unorganized militia," which consists of all members of the "militia of the United States" who are not members of the "organized militia." [10 U.S.C. §311(b).] (See footnote 3 to this chapter, above, for the statutory definition of "militia of the United States.")
[7] 29 Op. Atty. Gen. 322 (1912).

be used, persons so drafted were technically discharged from the militia during their federal service, thus neutralizing the constitutional restrictions on the overseas use of the militia.[8]

In addition to making the draft and overseas deployment of the National Guard possible, the National Defense Act of 1916, ch. 134, *id*., also dealt with other aspects of the then-existing militia system. Among other things, the act authorized, for the first time, the use of federal funds for the payment of inactive-duty training pay, which the act called "compensation for ... services," to National Guard personnel.[9] The prescribed rates were $500 a year for officers of the grade of captain or above, $240 for first lieutenants, $200 for second lieutenants,[10] and, for enlisted personnel, 25 percent of the annual base pay of enlisted personnel of corresponding rank in the Army for attendance at not less than 48 drills of at least 1.5 hours in duration,[11] or a proportionate amount for attendance at less than 24 drills.[12] The amount and character of service required of officers to qualify for the pay was left to Army regulations.

The National Defense Act of 1916, ch. 134, *id*., also raised the authorized strength of the Regular Army and provided for a gradual increase in the strength of the National Guard from about 100,000 to over 400,000, to be apportioned among the states on the basis of the number of their Senators and Representatives. The act required National Guard units to conduct at least 48 drill periods and 15 days of field training each year. Instructors were to be provided and inspections conducted by Regular Army personnel. The National Guard was to be paid with federal funds, distributed among the states "in direct ratio to the number of enlisted men in active service in the National Guard." The Secretary of War was authorized to withhold funds from states whose Guard did not meet the standards of the act. It created an Army Reserve Officers' Training Corps (ROTC) in civilian educational institutions, and established an Officers' Reserve Corps in which ROTC graduates could be commissioned. It also established a Regular Army Reserve, to be composed of enlisted personnel with prior service, and an Enlisted Reserve Corps, to consist of men without prior service who were by virtue of their civilian occupations technically qualified for duty in the Quartermaster, Engineer, or Signal Corps or the Ordnance or Medical Departments.

The National Defense Act of 1916, ch. 134, *id*., further divided the militia into three classes—the National Guard, the Naval Militia, and the Unorganized Militia.[13] The Naval Militia had been created without any identifiable federal status, beginning in 1888 with the formation of a Naval Militia under the law of the Commonwealth of Massachusetts, and followed over the next few years by several other states. Congress tacitly approved the formation of these state forces by appropriating funds for "arms and equipment connected therewith for the Naval Militia of various states" in the Naval Service Appropriation Act of 1892, ch. 494, §1, 26 Stat. 799, 801 (1891), and in succeeding appropriation acts. The Naval Militia Act of 1914, ch. 21, Pub. L. No. 63-57, 38 Stat. 283 (1914), gave the Naval Militia a status similar to that of the land militia. It authorized the President to call the Naval Militia into federal service in time of war or national emergency through the appropriate state governors.

The Act of March 3, 1915, ch. 271, Pub. L. No. 63-269, §1, 38 Stat. 928, 940 (1915), authorized the establishment of the United States Naval Reserve, composed of men honorably discharged from the Navy after having completed an enlistment of not less than four years or a minority enlistment. A much more elaborate Naval Reserve Force was set up in the Naval Service Appropriation Act of 1917, ch. 417, Pub. L. No. 64-241, 39 Stat. 556, 587–92 (1916), based on a system of inactive-duty "retainer pay" for individuals who obligated themselves to serve in the Navy in time of war and national emergency. This force consisted of six classes: (1) the Fleet Naval Reserve, to be composed of former officer and enlisted personnel of the

[8] See, e.g., Selective Draft Law Cases, 245 U.S. 366 (1918), and *United States v. Silver*, 243 Fed. 422 (1917).
[9] Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, §109, 39 Stat. 166, 209 (1916).
[10] Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, §109, 39 Stat. 166, 209 (1916).
[11] Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, §110, 39 Stat. 166, 209–10 (1916).
[12] Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, §92, 39 Stat. 166, 206 (1916).
[13] As previously indicated, this division survives in existing law at 10 U.S.C. §311(b). (Under 10 U.S.C. §311(b)(2), the "unorganized militia" consists of all members of the "militia of the United States" who are not members of the National Guard or the Naval Militia. See footnote 5 to this chapter, above.)

Regular Navy; (2) the Naval Reserve, to consist of men of the seagoing profession who, after some training, could be expected to serve on combatant ships; (3) the Naval Auxiliary Reserve, to be made up of persons employed on American merchant ships suitable for use as naval auxiliaries; (4) the Naval Coast Defense Reserve, to consist of persons who might perform useful service for the Navy in the defense of the coast; (5) the Naval Reserve Flying Corps, to be drawn from former Navy flyers and other persons skilled in the design, building, or operation of aircraft; and (6) the Volunteer Naval Reserve, to be composed of persons eligible to serve in one of the other five classes who obligated themselves to serve without retainer pay.

Under the Act of August 29, 1916, ch. 417, Pub. L. No. 64-241, 39 Stat. 556, 587–92 (1916), members of all classes of the Naval Reserve Force except the Volunteer Naval Reserve were eligible for retainer pay without regard to any actual performance of inactive-duty or training. Enlisted personnel of the Fleet Naval Reserve with less than eight years of service were entitled to an annual retainer of $50, those with between eight and 12 years of service were entitled to $72, and those with more than 12 years, to $100. Enlisted personnel transferred to the Fleet Naval Reserve after completion of at least 16 or 20 years of active naval service were entitled to retainer pay of one-third or one-half, respectively, of their base and longevity pay at the time of transfer. Officers of the Fleet Naval Reserve, all members of the Naval Reserve, enlisted personnel of the Naval Auxiliary Reserve, and members of the Naval Coast Defense Reserve and the Naval Reserve Flying Corps were entitled to an annual retainer equal to two months' base pay of the corresponding rank in the Navy. Officers of the Naval Auxiliary Reserve were entitled to one month's base pay of the corresponding rank in the Navy.

Separate and apart from the Naval Reserve Force, the Act of August 29, 1916, ch. 417, *id.*, also created a force of National Naval Volunteers to be enrolled from officers and enlisted personnel of the Naval Militia. The act provided that the National Naval Volunteers could be ordered into federal service whenever a need arose and, evidently with an eye on the constitutional bar against the use of the militia outside the United States, stipulated that when in federal service they were relieved from all duty with the Naval Militia. It also authorized the payment of inactive-duty training pay—which, like that of the Naval Reserve Forces, it called "retainer pay"—to members of the National Naval Volunteers. The conditions of entitlement to and the rate of this pay were similar to the drill pay authorized two months earlier for members of the National Guard. The only difference in the two laws with respect to pay was without any practical significance: both Naval Militia and National Guard officers had to attend at least 48 drills or periods of instruction per year to qualify for inactive-duty training pay; for Naval Militia officers this was a requirement of the law while for National Guard officers it was imposed by Army regulations.

The Act of July 1, 1918, ch. 114, Pub. L. No. 65-182, 40 Stat. 704, 708 (1918), abolished the National Naval Volunteers and repealed all federal laws relating to the Naval Militia, but not the Naval Reserve Force. A portion of the Naval Militia legislation was revived by the Act of June 4, 1920, ch. 228, Pub. L. No. 66-243, 41 Stat. 812, 817 (1920), however, so the Naval Militia remained a component of the Navy until a new reserve structure was established by the Armed Forces Reserve Act of 1952, ch. 608, Pub. L. No. 82-476, 66 Stat. 481 (1952). Nevertheless, after 1918, the Naval Militia in essence reverted to the status of state forces only and no longer had the same relationship to the Navy as the National Guard had to the Army.

The Act of June 4, 1920, ch. 227, Pub. L. No. 66-242, §3, 41 Stat. 759 (1920), reorganized the Army of the United States into the Regular Army, the National Guard while in federal service, and the Organized Reserve, which included the old Officers' Reserve Corps and the Enlisted Reserve Corps. Under this act members of the National Guard became entitled to "compensation" for inactive-duty training—here sometimes also called "drill pay"—at the rate of one-thirtieth of the base pay of their grade for each attendance at a regular drill or assembly—a method of computation which became the standard for all inactive-duty training pay and which continues basically unchanged in existing law to this day. In the case of officers, the pay was authorized only for drills of not less than 1 1/2 hours attended and participated in by at least 50 percent of the commissioned and 60 percent of the enlisted strength; the number of paid drills could not exceed five in any month; and no more than $500 a year in drill pay could be paid to those above the grade of captain. For enlisted personnel, paid drills could not exceed eight in a month or 60 in a year, and no pay

was authorized for any month in which a member attended less than 60 percent of the drills or other exercises scheduled for his organization.

Separate legislative proposals had been introduced in Congress to establish the first peacetime universal military training in the United States, to reorganize the U.S. Army, and to further federalize the National Guard. The hearings on all these bills were combined and, although a mass of testimony was taken and extensive debate occurred on the bills, practically no attention was given to the small item of the change in the method of calculating drill pay. There is, however, no evidence of any congressional intent to equate the pay for one drill to "1 day's pay," even though such pay was established as one-thirtieth of one month's base pay. An early version of the bill had proposed drill pay of 7 percent of monthly base pay for each drill; a later version had proposed one-twentieth of one month's base pay. It is not clear how or why the one-thirtieth formula was arrived at in the enactment. (In terms of multiples of a "day's pay," the rates for one drill were: (1) 1916 Law—1.9 days; (2) 1st proposal—2.1; (3) 2d proposal—1.5; (4) 1920 law—1.0.) What is clear is that it was the view of both the Army and the Congress that some change in the method of computation was needed because of dissatisfaction with the way the 1916 formula was working. As the Chief of the Army Militia Bureau testified:

> I want to say that the Militia Bureau has been endeavoring to get the law changed so as to do away with the system of payments and with some of the other things we have found have not worked. Your committee has a recommendation to that effect. We would be glad to see men who attend drill paid for their services.[14]

Congress agreed:

> Sections 109 and 110 [of the National Defense Act], providing for Federal pay for the National Guard, have been rewritten so as to simplify a system which experience has shown to be very cumbersome and difficult of administration. Pay will hereafter be based on the number of drills attended, rather than on periods of time.[15]

The Joint Services Pay Readjustment Act of 1922, ch. 212, Pub. L. No. 67-235, 42 Stat. 625 (1922), fixed the National Guard armory drill pay rate for enlisted personnel of the sixth and seventh grades (E-2 and E-1 under the current structure) at $1.15 and $1.00 per drill, respectively. Under the pay rates prescribed in the act, one-thirtieth of the monthly base pay of the sixth grade was $1 and that of the seventh grade was 70 cents.

The Act of June 3, 1924, ch. 244, Pub. L. No. 68-186, §2, 43 Stat. 363, 363–64 (1924), changed the maximum number of drills for which National Guard officers could be paid from five per month with a maximum of 60 per year to "not less than" 48 per year, and replaced the provision that had made the attendance of 50 percent of the officer strength and 60 percent of the enlisted strength at any drill a condition of entitlement for officer drill pay with a provision that allowed the President to prescribe the minimum number of enlisted personnel and officers to be present at a drill in order to receive pay.

The Act of February 28, 1925, ch. 374, Pub. L. No. 68-512, §1, 43 Stat. 1080 (1925), abolished the Naval Reserve Force established in 1916 and in its place created a Naval Reserve of three classes: the Fleet Naval Reserve, the Merchant Marine Naval Reserve, and the Volunteer Naval Reserve. The Fleet Naval Reserve was the "organized" arm of the force, and its officers and one category of its enlisted personnel—those specifically enlisting for such service—were the only classes required to perform drills and training. Officers below the grade of lieutenant commander and enlisted personnel of the "organized" Fleet Naval Reserve were entitled to compensation equal to one-thirtieth of the monthly base pay of their rank for each period of attendance at a regular drill or equivalent instruction, not to exceed 60 periods of drill or instruction in any fiscal year.

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[14] *Army Reorganization: Hearings before the House Committee on Military Affairs on H.R. 8287, H.R. 8068, H.R. 7925, and H.R. 8870*, 66th Cong., 1st sess., vol. II, 1889 (1919) (testimony of the chief of the Militia Bureau of the Army).
[15] H.R. Rep. No. 680 (Committee on Military Affairs), at 13, accompanying H.R. 12775, 66th Cong., 2d sess. (1920).

The "retainer" system of inactive-duty reserve compensation was continued only for certain enlisted categories of the Fleet Naval Reserve and for members of the Merchant Marine Naval Reserve. The Act of February 28, 1925, ch . 374, *id*., authorized the Secretary of the Navy to require a four-year reserve obligation for men enlisting in the Regular Navy after July 1, 1925. Personnel assigned to the Fleet Naval Reserve as a result of the obligation were entitled to an annual retainer of $25 but were not required to perform any inactive-duty training. Enlisted personnel transferred to the Fleet Naval Reserve after 20 years of service, and those transferred before July 1, 1925, or who were serving on active duty on that date and were subsequently transferred after 16 years of service, were entitled to retainer pay of one-half or one-third, respectively, of their base and longevity pay at the time of transfer. Members of the Merchant Marine Naval Reserve were entitled to an annual retainer equal to one month's base pay of their corresponding grade in the Navy. Members of the Volunteer Naval Reserve were not entitled to either retainer pay or inactive-duty training pay.

In 1930 the Navy amended its regulations to permit, under specified circumstances, as many as three drills to be consolidated into one period and held in one day. Under the regulations, fleet reservists in attendance at a consolidated drill for at least 4 1/2 hours were credited with three drills and paid inactive-duty training pay of three-thirtieths of one month's base pay, those in attendance for less than 4 1/2 but not less than three hours were credited with two drills and paid two-thirtieths of one month's base pay, and those in attendance for less than three but not less than 1 1/2 hours were credited with one drill and received one-thirtieth of one month's base pay. This change in the regulations was made after the Comptroller General of the United States had ruled that the "multiple drill" was legally permissible under the Naval Reserve Act of 1925,[16] and the Navy has conducted some of its inactive-duty training under this system ever since. The Judge Advocate General of the Army, however, for many years maintained the view that, under the drill pay authority of the National Defense Act of 1916, the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, 56 Stat. 359 (1942) (which restated the National Defense Act authority), and the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949) (which further restated that authority), it was legally objectionable to count for pay purposes drills or equivalent periods of instruction held in excess of one on a single calendar day.[17]

The Act of June 15, 1933, ch. 87, Pub. L. No. 73-64, 48 Stat. 153 (1933), created a new Army component, the National Guard of the United States. This component was superimposed on and identical in personnel and organization to the National Guard of the several states but, in its new status, could be ordered to active duty in time of war or national emergency declared by Congress without the necessity of a "call" through the various state governors.

The Naval Reserve Act of 1938, ch. 690, Pub. L. No. 75-732, 52 Stat. 1175 (1938), dissolved the then-existing three-class Naval Reserve structure and replaced it with a reserve of four classes the Fleet Reserve, the Organized Reserve, the Merchant Marine Reserve, and the Volunteer Reserve. The Organized Reserve was the only class required to perform drills and training; however, members of the Merchant Marine Reserve were permitted to train and, in a departure from previous law, were entitled to inactive-duty training pay for drills or training actually performed. The act continued the one-thirtieth-of-one-month's-base-pay drill pay formula, removed the prohibition against payment of drill pay to officers in the grade of lieutenant commander or above, and placed a $10 ceiling on the pay for any one drill. Retainer pay was continued only for enlisted personnel previously or subsequently transferred to the Fleet Reserve after 16 or more years of service and for those assigned to the Fleet Reserve under a reserve obligation assumed upon enlistment in the Regular Navy. In keeping with prior practice under the Naval Reserve Acts of 1916 and 1925, the 1938 act provided for a Marine Corps Reserve that was in general parallel in structure, organization, and personnel to that of the Naval Reserve.

The Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, 56 Stat. 359 (9142), fixed the National Guard armory drill pay rate as one-thirtieth of one month's base pay across the board. This action removed the

[16] Unpublished Decision A-31431 of May 12, 1930 (Comptroller General) (maintained in subsequent informal rulings and by regulation).

[17] Such an opinion was expressed, for instance, in JAGA 1948/6779 of September 20, 1948, and in JAGA 1954/4452 of May 13, 1954.

$500 annual ceiling on officers' drill pay and eliminated the special rates for enlisted members of the sixth and seventh grades.

On September 8, 1939, President Franklin D. Roosevelt proclaimed a national emergency, setting in motion a mobilization of the nation's manpower. This proclamation enabled the Navy and the Marine Corps to begin the involuntary ordering of their reserve members to active duty, since the Naval Reserve Act permitted such action based on a declaration of national emergency by the President. The National Guard of the United States and the Army Reserve could be ordered to active duty only in time of war or national emergency declared by Congress. A joint resolution of the Congress of August 27, 1940, ch. 689, Pub. Res, 76-96, §1, 54 Stat. 858, 858–59 (1940), authorized the President to order these components into federal service for 12 months' duty in the Western Hemisphere or in territories or possessions of the United States. (The National Guard could have been called into federal service in its militia status, subject to the constitutional restraints on its use beyond the borders of the United States, without this joint resolution.)

The Selective Training and Service Act of 1940, ch. 720, Pub. L. No. 76-783, 54 Stat. 885 (1940), provided for the induction of male citizens between the ages of 21 and 36 into the land and naval forces, also for 12 months, and for service in the Western Hemisphere or in territories or possessions of the United States. A Joint Resolution of August 18, 1941, ch. 362, Pub. L. No. 77-213, §2, 55 Stat. 626 (1941), extended the length of federal service required of national guardsmen, Army reservists, and inductees to 18 months. A joint resolution of December 13, 1941, ch. 571, Pub. L. No. 77-338, §1, 55 Stat. 799, 799–800 (1941), six days after the Japanese attack on Pearl Harbor, further extended this required service for the duration of the war and six months following and removed all geographic restrictions on the use of such personnel.

The National Security Act of 1947, ch. 343, Pub. L. No. 80-253, §207, 61 Stat. 495, 502–3 (1947), established the Department of the Air Force, and the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), made all provisions of law relating to the National Guard, the National Guard of the United States, and the Army Organized Reserve Corps applicable also to the Air National Guard and the Air Force Reserve, formed from personnel of the Army Air Force Reserve. The Selective Service Act of 1948, ch. 625, Pub. L. No. 80-759, §7, 62 Stat. 604, 614 (1948), gave the President authority, for two years, to order members of any or all reserve components into active service for up to 21 months. This authority was extended for 15 days to July 9, 1950, by the Act of June 23, 1950, ch. 351, Pub. L. No. 81-572, 64 Stat. 254 (1950), and further extended to July 9, 1951, by the Act of June 30, 1950, ch. 445, Pub. L. No. 81-599, 64 Stat. 318 (1950). The 1951 amendments to the Universal Military Training and Service Act, enacted as Title I of the Act of June 19, 1951, ch. 144, Pub. L. No. 82-51, 65 Stat. 75 (1951), extended the authority once more, this time to July 1, 1953, and increased the period for which the reserves could be required to serve to 24 months. The 1948 Selective Service Act had taken another evolutionary step in the reserve program by requiring an eight-year total service obligation for persons between the ages of 19 and 26 who were appointed, enlisted, or inducted into the armed forces and who served on active duty for less than three years. The Universal Military Training and Service Act, ch. 144, *id*., modified the program by requiring an eight-year obligation for all such persons, whether or not they served on active duty for three years.

The evolution of inactive-duty training pay also continued after World War II. The Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), previously cited, made a significant change in the pay formula by authorizing pay to be computed at the rate of one-thirtieth of one month's base and longevity pay for each drill rather than at the rate of one-thirtieth of one month's base pay. Under the laws then governing military pay, "base pay" was the initial rate prescribed for each grade without regard to length of service; "base and longevity pay" was the equivalent of current "basic pay," which includes built-in percentage increases based on length of service. [See Chapter II.B.1., "Basic Pay," above.][18] Longevity pay then amounted to 5 percent of base pay for each three years of service; hence, the changed computation method resulted in a 5-percent increase in the drill pay rate for members with more than three years of service, 10 percent for those with over six years of service, etc. This revision to the method of computing inactive-duty training pay was not

[18] In particular, see footnote 6 to Chapter II.B.1., "Basic Pay," together with accompanying text.

mentioned in the hearings or reports on the legislation. The Act of March 25, 1948, ch. 157, *id*., grouped the Army Officers' Reserve Corps, the Enlisted Reserve Corps, and the Organized Reserves into a component called the Organized Reserve Corps, and authorized the payment of inactive-duty training pay to members of this component. This authority put the Army Reserve on a par with the National Guard and the reserve components of the other services for the first time with respect to inactive-duty training pay, and it was this aspect of the legislation that commanded the attention of committee members and witnesses. The act also combined the inactive-duty training pay authority for all branches of service into one statute, and it fixed two hours instead of 1 1/2 hours as the minimum length of a period of drill or instructions required to qualify a member for the pay.

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949),[19] reenacted the 1948 inactive-duty training pay authority without any substantive change, and it is the basic source for the current law on the subject, codified at 37 U.S.C. §206. The multiple-drill issue arose during the hearings. The Army representative at the hearings, at the suggestion of the Chief of the National Guard Bureau, proposed that the language of the bill be amended to make it absolutely clear that no more than one-thirtieth of one month's "basic pay"[20] (invariably called "one day's pay" by the witnesses and subcommittee members) could be paid for drills or instructions performed within any single day. The bill was amended as proposed.[21] Three days later, however, after further discussion of the matter—including consideration of a joint memorandum from the Navy and Air Force representatives urging the committee not to upset the consolidated drill systems being used by their services—the amendment was rescinded.[22] It was not included in the legislation ultimately enacted.

The Armed Forces Reserve Act of July 9, 1952, ch. 608, Pub. L. No. 82-476, 66 Stat. 481 (1952), set up new statutory underpinnings for the reserve system of the armed forces. It established six reserve components within the military departments: (1) the National Guard of the United States, (2) the Army Reserve, (3) the Naval Reserve, (4) the Marine Corps Reserve, (5) the Air National Guard, and (6) the Air Force Reserve. [See present 10 U.S.C. §10101.] It also established a Coast Guard Reserve. The act required that the members of these components be placed in one of three Categories: the Ready Reserve, the Standby Reserve, or the Retired Reserve. Personnel in these categories are further separated into an active, inactive, or retired status. All members of the Ready Reserve are in an active status; those in the Standby Reserve may be in either an active or inactive status; and, as the title indicates, those in the Retired Reserve are in a retired status. Since the creation of the Selected Reserve of the Ready Reserve in 1967, it has been Department of Defense policy to restrict eligibility for inactive-duty training pay as well as retirement point credit for attendance at drills, periods of instruction, or other qualifying training to members of the Selected Reserve. Members of the Individual Ready Reserve and active status members of the Standby Reserve may voluntarily perform unpaid inactive-duty training and receive retirement point credit. Members in an inactive or retired status are not eligible for inactive-duty training or the pay associated therewith. Members of the Ready Reserve, which includes the National Guard and the Air National Guard, may be involuntarily ordered to full-time active duty in time of national emergency declared by the President after January 1, 1953, but only in such numbers as may be authorized by

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[19] After enactment of the Career Compensation Act of 1949, ch. 681, *id*., the inactive-duty training pay provisions were classified to 37 U.S.C. §301. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions were codified at 37 U.S.C. §206.

[20] The pre-1949 active-duty compensation system of "base and longevity pay" became "basic pay" under the Career Compensation Act. See Chapter II.B.1., "Basic Pay," above, generally; in particular, see footnote 6 of that chapter together with accompanying text.

[21] *Career Compensation for the Uniformed Services: Hearings before a Subcommittee of the House Armed Services Committee on H.R. 2553*, printed in *Hearings before the House Committee on Armed Services on Sundry Legislation Affecting the Naval and Military Establishments*, 1949, 81st Cong., 1st sess., 1721–1723 (1949).

[22] *Career Compensation for the Uniformed Services: Hearings before a Subcommittee of the House Armed Services Committee on H.R. 2553*, printed in *Hearings before the House Committee on Armed Services on Sundry Legislation Affecting the Naval and Military Establishments*, 1949, 81st Cong., 1st sess., 1775–1778 (1949).

Congress. Members of the Standby and Retired Reserve are subject to involuntary call to full-time active duty only in time of war or national emergency declared by Congress.

In a policy directive dated May 2, 1955, the Department of Defense authorized the military departments to conduct multiple training periods consisting of more than one paid drill, training assembly, or period of equivalent training or instruction, each to be of at least four hours in duration, within one calendar day. The directive was revised on March 5, 1956, to limit such multiple training periods to two per day. Evidently there still was doubt in some quarters about the legality of paying more than one-thirtieth of one month's basic pay for training performed within a single day, and the Assistant Secretary of Defense (Comptroller) submitted the matter to the Comptroller General for resolution. The Comptroller General ratified the existing practices by ruling that, under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), there is no legal objection to paying inactive-duty training pay for each of two training periods conducted within a single calendar day and, further, that members who are entitled to pay for two such training periods are also entitled, under Title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, Pub. L. No. 80-810, 62 Stat. 108 (1948), to two retirement point credits.[23] [24]

The Reserve Forces Bill of Rights and Vitalization Act, Pub. L. No. 90-168, §2, 81 Stat. 521, 522 (1967), established a Selected Reserve within each Ready Reserve component to consist of elements having the highest priority in personnel, training, equipment, and general readiness. The Selected Reserve was required to be made up in part of units organized and trained as such, and its organization and training was required to be approved by the Secretary of Defense based upon recommendations from the military departments as approved by the Joint Chiefs of Staff in accordance with contingency and war plans. Members of the Ready Reserve who did not belong to the Selected Reserve were administratively classified to the Individual Ready Reserve.

The Act of May 14, 1976, Pub. L. No. 94-286, §1, 90 Stat. 517 (1976), empowered the President to involuntarily order not more than 50,000 members of the Selected Reserve to active duty for not more than 90 days without a declaration of national emergency. The President was required to advise the Congress within 24 hours after exercising this authority of the "circumstances necessitating the action taken" and of the anticipated use of the reserve members or units. The act further provided that reservists ordered to active duty under such authority could be used only for operational missions and not to provide assistance during domestic disturbances. It stipulated that the Presidential order could be revoked by a joint resolution of Congress. The Act of December 23, 1980, Pub. L. No. 96-584, §2, 94 Stat. 3377 (1980), increased to 100,000 the number of members of the Selected Reserve the President could order to active duty without a declaration of national emergency, but left the 90-day maximum applicable to such duty intact. The National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §521, 100 Stat. 3816, 3870 (1986), increased this number to 200,000[25] and also permitted the President to extend the active-duty period for a second 90 days[26] if he determined such action to be "necessary in the interests of national security."

The Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §1402(a), 98 Stat. 2492, 2620–2621 (1984), adopted as a part of permanent law a provision specifying that a member of a reserve component or the National Guard may not receive pay for more than four periods of equivalent training, instruction, or other appropriate duties to make up for regular periods of training or instruction missed during a fiscal year. This provision merely adopted, and codified, practices that had been followed for a number of years, as set out in annual Department of Defense appropriations acts.

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[23] 37 Comp. Gen. 618 (1958).

[24] The number of retirement points that a member of a reserve component of an armed force may accumulate in one year for inactive-duty training is limited to 60.

[25] See 10 U.S.C. §12304 as amended by Section 521(a) of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §521(a), 100 Stat. 3816, 3870 (1986).

[26] See 10 U.S.C. §673b(i) as added by Section 521(b) of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §521(b), 100 Stat. 3816, 3870–3871 (1986). (This latter provision was repealed by the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §511(a)(2) 108 Stat. 2663, 2752 (1994).)

Under the provisions of 37 U.S.C. §204(g)–(i), as added by the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §604, 100 Stat. 3816, 3874–3878 (1986), and as amended by the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §631, 102 Stat. 1918, 1984–1985 (1988), a member of a reserve component of a uniformed service is entitled to "incapacitation pay" in the amount of the pay and allowances of a member of a regular component of a uniformed service if the member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing active duty;

(B) in line of duty while performing inactive-duty training ... ; or

(C) while traveling directly to or from such duty or training.

Generally speaking, any income from nonmilitary employment or self-employment earned by an incapacitated member during a month he or she would otherwise have been entitled to incapacitation pay operates to reduce the amount of incapacitation pay the member actually receives on a dollar-for-dollar basis. Incapacitation pay may be paid for up to six months, provided that the Secretary of the member's military department may extend the period for receipt of such pay if a determination is made that "it is in the interests of fairness and equity to do so."[27]

As previously indicated, members of reserve components participating in inactive-duty training are entitled to one day's basic pay for each drill period.[28] Accordingly, whenever basic pay rates are increased, compensation for inactive-duty training is also increased. Current rates of basic pay are set out at the end of the text in Chapter II.B.1, "Basic Pay," above. For historical information on how basic pay rates have changed over time, see the tables entitled "Basic Pay Schedule—Historical Data" at the end of that chapter.

As stated at 10 U.S.C. §10102:

> The purpose of each reserve component is to provide trained units and qualified persons available for active duty in the Armed Forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the Armed Forces whenever, during and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in the regular components.

Cost: For the cost of compensation for inactive-duty training from 1972 to 2016, see table II-5, below.

[27] For the reasons underlying the initial authorization of incapacitation pay, see S. Rep. No. 99-331 (Committee on Armed Services), at 238–40, accompanying S. 2638, 99th Cong., 2d sess. (1986), and H.R. Rep. No. 99-718 (Committee on Armed Services), at 203–4, accompanying H.R. 4428, 99th Cong., 2d sess. (1986); *cf.* H.R. Rep. No. 99-1001 (Committee of Conference), at 477, accompanying S. 2638, 99th Cong., 2d sess. (1986).

[28] One day's basic pay for a given pay grade and longevity step is computed as 1/30th of the monthly basic pay to which a member of the uniformed services having the same pay grade and longevity-step status would be entitled if on active duty.

Table II-5. Inactive-Duty Training Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	888,142	663,136	112,779	205,236	775,363	457,900
1973	894,105	749,584	117,392	230,473	776,713	519,111
1974	897,255	829,843	117,223	243,388	780,032	586,455
1975	893,729	861,430	116,047	252,268	777,682	609,162
1976	860,229	839,466	114,974	248,763	745,255	590,703
1977	747,730	886,000	111,867	290,333	635,863	595,667
1978	773,874	1,096,840	114,934	344,883	658,940	751,957
1979	782,054	941,740	116,289	314,803	665,765	626,937
1980	791,282	1,057,833	116,201	342,749	675,081	715,084
1981	705,130	1,198,868	104,001	372,097	601,129	826,771
1982	744,315	1,469,788	110,147	452,584	634,168	1,017,204
1983	795,306	1,597,424	116,095	487,276	679,211	1,110,148
1984	792,230	1,648,659	116,834	513,291	675,396	1,135,368
1985	821,740	2,474,630	119,777	760,778	701,963	1,713,852
1986	950,800	2,593,679	127,331	800,572	823,469	1,793,107
1987	978,543	2,463,711	132,478	771,614	846,065	1,692,097
1988	998,780	2,736,017	139,283	864,179	859,497	1,871,838
1989	997,054	2,891,136	140,095	919,515	856,959	1,971,621
1990	996,359	2,740,537	143,818	885,720	852,541	1,854,817
1991	1,009,397	2,923,019	150,983	845,284	858,414	2,077,735
1992	1,044,420	3,224,376	149,984	892,558	894,436	2,331,818
1993	988,717	3,189,883	146,815	908,031	841,902	2,281,852
1994	976,286	3,255,703	144,571	919,242	831,715	2,336,461
1995	880,105	2,769,906	129,387	893,703	750,718	1,876,203
1996	844,696	2,689,864	132,869	889,164	711,827	1,800,700
1997	822,157	2,631,308	127,641	878,362	694,516	1,752,946
1998	800,557	2,666,437	123,594	869,308	676,963	1,797,129
1999	782,517	2,624,515	122,290	857,484	660,227	1,767,031
2000	772,393	2,733,182	120,948	911,587	651,445	1,821,595
2001	772,851	3,035,453	117,691	1,009,632	655,160	2,025,821
2002	769,502	3,007,440	116,785	1,012,113	652,717	1,995,327
2003	776,876	2,857,753	115,439	920,880	661,437	1,936,873
2004	769,810	2,891,074	114,417	976,344	655,393	1,914,730
2005	822,254	2,722,685	76,027	916,506	746,227	1,806,179
2006	891,028	2,966,602	76,453	950,539	814,575	2,016,063
2007	1,353,796	3,116,988	76,041	1,027,553	1,277,755	2,089,435
2008	1,409,827	3,192,566	79,288	1,066,160	1,330,539	2,126,406
2009	481,347	2,633,396	67,256	771,869	414,091	1,861,527
2010	491,233	2,819,102	67,471	827,043	423,762	1,992,059
2011	509,961	3,003,271	68,600	840,006	441,361	2,163,265
2012	414,184	3,093,160	54,565	893,805	359,619	2,199,355
2013	527,119	3,131,459	73,941	908,055	453,178	2,223,404
2014	524,752	3,304,799	78,100	988,041	446,652	2,316,758

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2015	547,813	3,320,219	81,905	1,009,448	465,908	2,310,771
2016[1]	536,104	3,308,954	84,659	1,022,126	451,445	2,286,828

[1] Estimate.

Sources (2009–16 data): Department of the Air Force, Air National Guard Personnel and Air Force Reserve Personnel Budget Estimates (FY11–17); Department of the Army, Army National Guard Personnel and Army Reserve Personnel Budget Estimates (FY11–17); Department of the Navy, Marine Corps Reserve Personnel and Navy Reserve Personnel Budget Estimates (FY11–17).

Chapter II.D.
Overview of Special and Incentive Pays

Although every member of the armed forces receives basic pay and either the basic allowances for quarters and subsistence or quarters and subsistence in kind merely by virtue of being a member of the armed forces, some members also receive certain other pays—denominated special and incentive pays—on top of and in addition to basic pay, quarters, and subsistence. Historically, while the first special and incentive pays ever adopted were intended to provide enlistment and reenlistment incentives, the first special and incentive pays adopted in the twentieth century were intended to compensate members exposed to conditions more hazardous than those experienced by the average member of the armed forces during peacetime, and, indeed, all of the pays dealt with in Chapter II.D. of this edition of *Military Compensation Background Papers* originally had some hazard-compensation function or derived from one or more pays that had such a function. While some of the twentieth century's special and incentive pays still primarily serve a hazard-compensation function today, the purpose presently served by the vast majority of special and incentive pays has gradually changed over time, so that today most special and incentive pays are intended more to provide additional incentives to induce members of the armed forces to volunteer for certain career fields that would, without those incentives, experience manning shortfalls. Aviation career incentive pay, aviation officer continuation pay, and submarine duty incentive pay are perhaps the clearest examples of special and incentive pays whose major purpose has changed over time from being extra compensation for added hazards to balancing the supply of persons willing to enter and remain in critical military career fields with service demands. Other pays that have always been intended to serve a supply–demand balancing function are also dealt with under the present heading, not because they, themselves, were ever intended to compensate for added hazards, but rather because they derived from one or more special pays that were. Perhaps the most prominent of such special pays are the continuation, accession, and annual incentive pays for nuclear-qualified officers, which derived, historically, from submarine duty pay. For this reason, these pays are grouped, in Chapter II.D. of this edition of *Military Compensation Background Papers*, with the special and incentive pays for submarine and naval service duties. As a whole, the pays dealt with in Chapter II.D. serve to bring the number of volunteers for certain military career fields that involve some degree of hazard into balance with military peacetime manning requirements.

Certain other special pays that were always intended to serve a supply–demand balancing function are dealt with under the heading, "Attraction and Retention Pays," in Chapter II.E. of this edition of *Military Compensation Background Papers*, below. Included among these pays are the various special pays for health professionals (physicians, dentists, optometrists, veterinarians, psychologists, nurses, and other nonphysician health care providers); enlistment and reenlistment bonuses; reserve affiliation, enlistment and reenlistment bonuses, special unit pay, and educational assistance; foreign language proficiency pay, and the like. While denominated as "special pays," the pays dealt with under Chapter II.E. were never intended to serve a hazard- compensation function, nor did they derive from one or more pays that were intended to serve such a function. Rather, their primary function is, and has always been, to make a military career reasonably competitive with available non-military alternatives.

Since the last edition of Military Compensation Background Papers, the system of special and incentive pays has undergone significant legislative reform. In response to recommendations of the Defense Advisory Committee on Military Compensation and the Tenth Quadrennial Review of Military Compensation, in 2008 Congress consolidated the 65 categories of special and incentive pays into eight general bonus authorities. The consolidation of legislative authorities is intended to simplify and reduce the costs of administering the system of special and incentive pays while providing the services with greater flexibility to adjust compensation as required by circumstances. Under the new system, most special and incentive pays will be classified under one of the following broad legislative authorities:

Enlisted Force Management; Officer Force Management; Nuclear Officer Force Management; Aviation Officer Force Management; Health Professions Officer Management; Hazardous Duty Pay; Assignment or Special Duty Pay; and Skill Incentive-Proficiency Pay. Plans are to begin to use these new authorities gradually as the Secretary of Defense, working with the services, develops implementing regulations for special pays in each category.

Because the pays dealt with in Chapter II.D. and Chapter II.E. of this edition of *Military Compensation Background Papers* are all denominated as "special and incentive pays," the following summary statistics showing the aggregate costs of special and incentive pays include all Chapter II.D. and Chapter II.E. pays. For the convenience of the reader, however, the aggregate costs of the Chapter II.D. pays are shown separately from the Chapter II.E. pays—the Chapter II.D. pays being grouped under the heading "Special and Incentive Pays" and the Chapter II.E. pays being grouped under the heading "Attraction and Retention Pays," mirroring the Chapter II.D. and Chapter II.E. headings found in this edition of *Military Compensation Background Papers*.[1, 2]

Cost: For the aggregate cost of special and incentive pays from 1972 to 2016, see table II-6, below.

Table II-6. Overview of Special and Incentive Pays, 1972–2016

Fiscal Year	Cost ($000)
1972	529,741
1973	398,917
1974	326,650
1975	329,199
1976	312,589
1977	301,972
1978	295,879
1979	278,518
1980	271,142
1981	502,026
1982	662,707
1983	713,599
1984	735,809
1985	726,597
1986	766,650
1987	791,715
1988	848,633
1989	923,509
1990	1,081,078
1991	1,662,701
1992	1,115,962
1993	1,077 662
1994	986,880
1995	945,940
1996	1,753,630

Fiscal Year	Cost ($000)
1997	1,778,563
1998	1,901,387
1999	2,263,330
2000	2,808,207
2001	3,182,763
2002	2,777,165
2003	4,573,954
2004	4,272,042
2005	5,100,788
2006	5,507,941
2007	5,752,099
2008	6,703,858
2009	5,025,833
2010	3,446,757
2011	3,387,951
2012	3,122,277
2013	2,863,558
2014	2,613,855
2015	1,390,004
2016[1]	2,344,470

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

[1] Although data showing both costs and numbers of recipients are available for most of the special and incentive pays, data on the number of recipients of special and incentive pays are not included in the summary statistics set out below. The fact is, members of the armed forces may be entitled to more than one special and incentive pay, and many members actually receive more than one special or incentive pay. Doctors, for instance, frequently receive more than one form of special pay for health professionals, and they may also be entitled to, for instance, non-crew member flight pay, submarine duty incentive pay, or career sea duty pay, depending on duty assignments. Similarly, persons entitled to demolition duty pay may also be entitled to, for example, either diving duty pay, parachute duty pay, or flight deck duty pay, to say nothing of career sea duty pay. In these circumstances, it is felt that showing recipient data would be likely to mislead readers, and for this reason, recipient data are not shown in the tables.

[2] Because cost data for certain special and incentive pays are no longer available—such as the experimental stress-duty pays and the personal-exposure pays—the tables at the end of some chapters do not include current costs for those pays.

Chapter II.D.1.a.(1)
Hostile Fire Pay
(Hostile Fire and Imminent Danger)

Legislative Authority: 37 U.S.C. §310.

Purpose: To provide an additional payment to personnel subject to hostile fire or subject to explosion of hostile mines; to personnel on duty in an area in which they were in imminent danger of being exposed to hostile fire or explosion of a hostile mine and while there, other members were subject to hostile fire or explosion of hostile mines; to personnel killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; and to personnel on duty in foreign areas in which they are subject to the threat of physical harm or imminent danger because of civil insurrection, civil war, terrorism, or wartime conditions.

Background: The principle of token additional compensation for combat personnel originated during World War II, though, except for the "recognition" nature of both, there is little similarity between the "badge pay" of that era and the "hostile fire pay" authorized under present law. Effective January 1, 1944, Army enlisted personnel awarded the Combat Infantryman Badge became entitled to an extra $10 a month, and those awarded the Expert Infantryman Badge, to an extra $5 a month. [See Act of June 30, 1944, ch. 335. Pub. L. No. 78-393, §1, 58 Stat. 648 (1944).] The $10 "badge pay" was later extended to enlisted members of the Army Medical Corps holding the Expert Medical Corps Badge. [See Act of July 6, 1945, ch. 279, Pub. L. No. 79-137, §1, 59 Stat. 462 (1945).] "Badge pay" had originally been intended for the combat soldier, but the relationship between combat duty and receipt of the pay was not direct; rather, it was paid as long as a member remained qualified for the applicable badge independently of whether the member was physically present in a combat area. In addition, some members who were physically present in combat areas did not qualify for the pay.

Entitlement to "badge pay" continued until October 1949 when the underlying authority was repealed by the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §531(b)(36) and (37), 63 Stat. 802, 839 (1949), which was enacted during an inter-war period when the military forces of the United States were not involved in armed conflict anywhere in the world. Interest in such a pay was, however, rekindled with the outbreak of hostilities in Korea in June 1950.

In July 1950, the Army recommended legislation to provide "hazard duty pay" to personnel involved in combat. In support of its proposal, the Army argued that it was inequitable that combat personnel were not eligible for extra pay when other personnel assigned to flying duty, submarine duty, parachute duty, and other hazardous duties were receiving extra pay. The Air Force and Navy disagreed with the proposal on a number of grounds: first, on the ground that there was no relationship between pay for combat duty and pay for flying, submarine, parachute, and other hazardous duties, since these latter pays had been intended as incentives to attract and retain a sufficient number of qualified volunteers for continuously hazardous duties; second, since it was widely understood and conceded—most particularly, at least according to the Air Force and Navy, by military personnel—that the basic purpose of a military force was to fight, military personnel implicitly accepted the additional hazards incident to combat in agreeing to become a part of the nation's armed forces, with the result that extra pay was not justified when such personnel actually became involved in combat;[1] and third, if the real concern was that military pay levels were inadequate to maintain an efficient fighting force, what was needed was an increase in the general level of military pay, not a new special pay for combat service.

[1] This argument was, of course, advanced before adoption of the all-volunteer-force concept for manning the armed forces. It was, however, quite true that the Air Force and Navy had traditionally been able to rely on volunteers for staffing to a significantly greater extent than the Army.

The departmental differences were resolved by the Secretary of Defense, and a legislative proposal was submitted to Congress that reflected the essence of the Army position. The proposal recommended combat pay at the rate of $100 a month for officers and $50 a month for enlisted personnel engaged in combat or direct combat support for at least six days in any one month. The rates were equal to the lowest rates authorized for any incentive pay, and personnel entitled to incentive pay were not to be eligible for combat pay. Neither the House nor the Senate Armed Services Committee acted on the proposal. In 1952, however, a combat-pay provision was incorporated as a Senate floor amendment to the annual Department of Defense appropriation bill. At a subsequent House–Senate conference, the amendment was rejected, only to be resurrected on the floor of the House. The Combat Duty Pay Act of 1952, authorizing combat pay in the amount of $45 per month retroactive to June 1, 1950, was enacted July 10, 1952, as Title VII of the Department of Defense Appropriation Act, 1953, ch. 630, Pub. L. No. 82-488, 66 Stat. 517, 538–39 (1952).

As is clear from the floor debates in both Houses, Congress's purpose in authorizing combat pay was to provide special recognition for the rigors and hazards of combat duty by equalizing extra compensation between combat personnel and personnel entitled to flying pay, submarine pay, parachute pay, etc. The following individual remarks are typical and highlight the "recognition" and "equalization" purposes intended to be served:

> *Mr. Teague*: This is some recognition of what they are doing, Mr. Speaker, if anywhere in the world there are a group of men to whom we owe a debt it is to the men who fight in the front lines during our wars.[2]
>
> * * *
>
> *Mr. Bennett*: The situation is that the casualties are coming from this group of people. They are the people who are doing the fighting in this war; it is the group we should recognize here. We should have recognized them a long time ago.[3]
>
> * * *
>
> *Mr. Mansfield*: Am I to understand this is an amendment to put the troops in Korea on a comparable basis with submariners, fliers, and others who get extra pay and other things?
>
> *Mr. Flood*: It is exactly that....
>
> *Mr. Hays*: This motion simply does, as the gentleman from Pennsylvania has pointed out, for the GI in the foxhole in Korea what we have been doing for nine other categories.... I do not take any credit away from the Air Force or the Navy but I think it would be rank discrimination if we refused to give hazard pay to the fellow in Korea who is out in the front lines, who is fighting the battle.[4]

When hostilities ended in Korea, interest in combat pay waned again, until a substantial number of United States troops were committed to Vietnam and combat casualties began to mount. In January 1963, the Department of Defense submitted a proposal to Congress to authorize a new combat pay—now denominated "hostile fire pay"—of $55 a month for all personnel serving in any place designated as a "combat area" by the Secretary of Defense, whether or not such personnel were assigned to a combat unit, and to personnel serving outside a designated "combat area" when subjected to hostile fire or the explosion of hostile mines. Harking back to the Korean experience, the Department of Defense recommended the same rate of hostile fire pay for officers and enlisted personnel. The $55 rate was selected because it was

[2] 98 Cong. Rec. 9437 (1952).
[3] 98 Cong. Rec. 9438 (1952).
[4] 98 Cong. Rec. 9434–35 (1952).

the lowest rate at which incentive pay was paid at the time.[5] In contrast to the preexisting authority for "combat pay," however, personnel were to be eligible for "hostile fire pay" even though also entitled to incentive pay.

The provision for hostile fire pay was enacted as part of the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §9, 77 Stat. 210, 216 (1963), with but one significant change from the Department of Defense proposal. The change was that hostile fire pay was authorized only as a limited war measure, authority for which was to terminate in time of war declared by Congress. Congress's intent in this regard was clear:

> ... [W]hat we are really trying to do ... is to provide a special payment for people who are under enemy fire during a time of so-called peace. We have been in so-called peace in Korea; we are in so-called peace in Vietnam; we are in so-called peace at the Berlin wall, and yet, as a practical matter, these people are getting shot at....
>
> * * *
>
> ... [W]e have a situation which has been going on and may go on for many years, in which people are going to get shot at. A very small number, perhaps.
>
> On the other hand, when we turn out a full mobilization, people are being assigned and practically everybody may be subject to hostile fire; then it becomes something that everybody has to accept and there shouldn't be any special pay attached to it.[6]

The "token recognition" nature of the provisions for hostile fire pay in the 1963 act is apparent in testimony given by Representative Charles Bennett of Florida to a subcommittee of the Senate Committee on Armed Services in support of a House floor amendment to return authority for hostile fire pay to the bill reported out of the House Armed Service Committee:

> I have a tremendous conviction this provision should remain in the Bill. It was put in there by the House and the Department of Defense approves this provision. It is a modest provision. The Bureau of the Budget approves it. It is an additional proposal. I think it is a thing which is only due and just to these men.
>
> Some people have said, "Well, you pay people to fight and therefore to pay them special pay for hostile fire is an improper thing."
>
> Well, perhaps that might have been a pretty good argument in 1776 when about 99 out of every hundred who were in the armed services were actually on the frontline, and 1 was back behind taking care of warehousing or something else. But the ratio is reversed today.
>
> As the chairman well knows, today almost all people, numerically speaking, in wartime, even wearing uniforms, are not in the frontline and therefore it seems to be that these people upon whom so much rests and who have such tremendous responsibilities on their shoulders, should have this token.
>
> Of course, you couldn't adequately pay them for what they are doing but it is a token which I assure you is appreciated, and I speak from personal experience in this, because in World War II, I did get the $10 infantry pay which came to people in World

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[5] At the time, the lowest monthly hazardous duty incentive pay rate under 37 U.S.C. §301 was $55. See 37 U.S.C. §301 as in effect in 1963.

[6] *Consideration of H.R. 3006, To Amend Title 37, United States Code, To Increase the Rates of Basic Pay for Members of the Uniformed Services, and for Other Purposes: Hearings before Subcommittee No. 1 of the House Committee on Armed Services*, House Armed Services Committee Doc. No. 6, 88th Cong., 1st sess., 1720–22 (1963) (remarks of Representatives Stratton and Blandford, respectively).

> War II, and I assure you that everyone that I knew of was very deeply grateful to the country for this amount of money which was given.
>
> It wasn't the amount of money which was given but the fact that the country was thinking of them and realizing that they had a special responsibility to perform that was deeply felt by the average person in World War II.
>
> I can't speak of Korea, but, of course, we had this same type of pay in Korea. I wasn't in the Korean War so I don't know how he felt about it then. But the people that I have talked to who have actually been in combat are very much in favor of this recognition by our country for their services.[7]

Representative Bennett's floor amendment was accepted by the House, and later by the Senate.

In explanation of its action, the Senate Committee on Armed Services noted:

> The bill proposes a special pay not presently authorized under existing law. This provision [section 9 of the bill] would provide a special pay at the rate of $55 a month for any member of the uniformed services during any month in which he was subject to hostile fire or explosion of hostile mines or on duty in an area in which he was in imminent danger of such exposure or explosion. In addition, a member will be entitled to such pay if killed, injured, or wounded by hostile fire or explosion of a hostile mine or any other hostile action.
>
> This provision would be in effect except in time of war declared by the Congress....
>
> During this period of world tension a limited number of members of our Armed Forces are assigned to duties in various parts of the world where they are exposed to the hazards of injury and death from hostile fire. This pay will provide tangible recognition for a dangerous task to which only a small proportion of our servicemen are assigned. The Department of Defense strongly urges the enactment of this provision.[8]

The rate of pay for hostile fire was raised from $55 to $65, effective September 1, 1965, by the Act of August 21, 1965, Pub. L. No. 89-132, §4, 79 Stat. 545, 547 (1965). This adjustment was part of a general increase in the level of military pay, and no special reason was provided for the $10 raise.

> From 1963 when hostile fire pay was initially authorized, until the legislative authority was expanded to authorize imminent danger pay in 1983, four areas were designated for hostile fire pay—Vietnam, Cambodia, Laos and, during the period of hostilities surrounding the seizure of the American Embassy, Iran. In addition, hostile fire pay was authorized from time to time during this period for personnel assigned to service in American embassies abroad that came under attack. To preserve the hostile fire pay entitlement of personnel still carried in a missing status [9] from the Vietnam Conflict, official designation for hostile fire pay was continued for Vietnam and Cambodia until the U.S. reestablished diplomatic relations with Vietnam (and for a period thereafter).

Effective October 1, 1983, the entitlement to hostile fire pay was extended to members of the uniformed services on duty in foreign areas where they were subject to "the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions," and the section title was changed to read "Special pay: duty subject to hostile fire or imminent danger." [See Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §905, 97 Stat. 614, 636–37 (1983).][9]

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[7] *Military Pay Increase—To Amend Title 37, United States Code, to Increase the Rates of Basic Pay for Members of the Uniformed Services, and for Other Purposes: Hearings on H.R. 5555 before the Special Subcommittee of the Senate Committee on Armed Services*, 88th Cong., 1st sess., 108 (1963) (statement of Representative Bennett).
[8] S. Rep. No. 88-387 (Committee on Armed Services), at 27–28, accompanying H.R. 5555, 88th Cong., 1st sess. (1963).
[9] See H.R. Rep. No. 98-352 (Committee of Conference), at 225, accompanying S. 675, 98th Cong., 1st sess. (1983).

This entitlement extension resulted from a House floor amendment to the authorization bill. As explained by the sponsor of the amendment, Representative Schroeder (D. Colorado):

> Mr. Chairman, my amendment is intended to provide authority for the Secretary of Defense to grant hostile fire pay to our military personnel in Lebanon and El Salvador. Over the past few months we have learned how dangerous it is to be an American soldier or sailor in Beirut or San Salvador. In mid -April, a car bomb exploded outside the American Embassy in Beirut killing as many as 16 Americans, most of them military. In late May, Lt. Comdr. Albert Schaufelberger was gunned down in a parking lot on the campus of Central American University in San Salvador. In both cases, these attacks were followed by threats of further violence against Americans in both places.
>
> Section 310 of title 37 provides limited authority for the Secretary of Defense to pay $65 a month as special pay to military personnel who are subject to hostile fire. The Defense Department has been applying this special pay provision only on a case-by-case basis, meaning that Commander Schaufelberger's family gets 1 month's pay of $65 for his being subject to hostile fire. I think this is wrong. We should provide blanket coverage for all Americans in both countries. The amendment I am offering would permit DOD to make such payments to all military personnel in such dangerous locations beginning October 1.
>
> * * *
>
> To provide some benefit for service members in clearly dangerous locations, I urge your support for the amendment.[10]
>
> As a result of the expanded statutory authority provided in the Department of Defense Authorization Act, 1984, Lebanon and El Salvador were designated, effective October 1, 1983, as areas in which personnel on official duty would qualify for imminent danger pay. With the operation in Grenada in late 1983, the Islands of Grenada and Carriacou were designated in October 1983; and, designation followed for Colombia in July 1985. Designations for Vietnam, Cambodia and Iran continued.

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §638, 99 Stat. 583, 649 (1985), further modified the provisions for hostile fire pay in 37 U.S.C. §310 to provide that the rate of pay for duty subject to hostile fire or imminent danger is to be "the lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title," i.e., the provisions for hazardous duty incentive pay covering such hazardous duties as parachute jumping, non-crew member flight duty, etc. Under an amendment to 37 U.S.C. §301(c)(1) also effected by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 583, 99 Stat. 648 (1985), "the lowest rate for hazardous duty incentive pay" was increased to $110. Hence, with the increase in rates for hazardous duty incentive pay under 37 U.S.C. §301(c)(1) to a minimum of $110 per month, the rate of pay for duty subject to hostile fire or imminent danger was increased, *pari passu*, to $110 per month from the previous $65 per month.

The legislative history of the 1986 Authorization Act, Pub. L. No. 99-145, *id.*, does not indicate the reasons for the increase in the rate of pay authorized for duty subject to hostile fire or imminent danger,[11] primarily because no report was ever submitted on the Senate bill, S. 1160, in which the subject provision was first inserted.[12] In fact, the hostile fire pay "enhancements" adopted as part of the 1986 Authorization

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[10] 129 Cong. Rec. 20970 (1983) (129 Cong. Rec. H5678-H5679 (daily ed. July 26, 1983)) (statement of Representative Schroeder).

[11] See S. Rep. No. 99-118 (Committee of Conference), at 431, and H.R. Rep. No. 99-235 (Committee of Conference), at 431, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[12] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services

Act exactly parallel recommendations advanced in 1984 by the Fifth Quadrennial Review of Military Compensation.[13] In particular, the Fifth Quadrennial Review recommended not only that the rate of pay authorized for hostile fire duties be "equal to the lowest hazardous duty incentive pay at the time," it also recommended that the name of the entitlement be changed to "danger pay."[14] [15] In support of its recommendation to equalize the lowest rate of pay for hazardous duty under 37 U.S.C. §301 and hostile fire pay, the Fifth Quadrennial Review stated:

> Level of Payment. The final issue deals with the proper level of HFP [hostile fire pay] payment. It is important, when setting the level, that the rates are appropriate but not excessive, ...

Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

> ... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.
>
> When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....
>
> Most of Senate Report 99-41 continues to be applicable to this bill....

131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... In addition, the Committee recommended increases or enhancements to a number of special and incentive pays....
>
> The special and incentive pays ... involved in these recommendations include:
>
> c. Danger pay.
>
> Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater).
Neither S. Rep. No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the program for hostile fire pay contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985). (The term "danger pay" appears to be synonymous with "hostile fire pay"; see footnotes 14 and 15, below, together with accompanying text.)

[13] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Fifth Quadrennial Review of Military Compensation was convened in 1982, pursuant to presidential directive, and its report and recommendations were submitted to Congress in early 1984.

[14] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III*: *Special and Incentive Pays*, November 1983, 32, 759. Also see *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-12, 13.

[15] Although the Senate Armed Services Committee recommended changing the name of the special pay entitlement to "danger pay" as recommended by the Fifth Quadrennial Review, this proposal was deleted in conference. S. Rep. No. 99-118 (Committee of Conference), at 431, and H.R. Rep. No. 99-235 (Committee of Conference), at 431, accompanying S. 1160, 99th Cong., 1st sess. (1985).

> Finally, it should be noted that Congress, in addition to previous commissions studying compensation, have indicated a desire to relate HFP rates to those of the lowest hazardous duty pays, believing that duties such as parachuting from a plane or disarming a bomb are no more dangerous than "putting one's life on the line." In addition, it is felt that those taking the "brunt of the action" deserve something greater than those in the rear areas. Hence, a two-tiered rate system related to the lowest hazardous duty pay is believed to be a logical and fair approach while staying within the original intent of "token recognition."[16] [17]

Whether on the basis of the recommendations and reasoning of the Fifth Quadrennial Review of Military Compensation or otherwise, Congress did in fact equate the rate of pay for duty subject to hostile fire or imminent danger to the lowest rate of pay for hazardous duties such as parachute jumping, explosives demolition, etc. Thus, the 1986 Authorization Act, Pub. L. No. 99-145, *id*., reestablished the linkage between hostile fire pay and hazardous duty incentive pay originally established by the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §9, 77 Stat. 210, 216 (1963).[18] Given the linkage, the rate of pay for duty subject to hostile fire or imminent danger increased from $65 a month to $110 a month with enactment of the 1986 Authorization Act, Pub. L. No. 99-145, *id*.

In the last half of the 1980s and up until Operation Desert Shield in August 1990, several more areas were designated for imminent danger pay: Sudan in July 1986 (for a short period); Peru in April 1987; the Persian Gulf, Bahrain, Kuwait, the Strait of Hormuz, and a portion of Gulf of Oman in August 1987 (this was terminated in April 1989); Afghanistan in November 1988; the Philippines in May 1990 (until November 1991); Panama in December 1989 (until end of January 1990); and Laos in December 1989 (until July 1997).

The rate of pay for duty subject to hostile fire or imminent danger was temporarily increased by Congress in the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §301(a), 105 Stat. 75, 80 (1991), from $110 to $150 a month.[19] The increase applied "during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict."[20] Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, *id*., §301(b), 105 Stat. 80. Although no reason was given for the temporary increase,[21] the Senate had earlier proposed the exact same action in

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[16] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays,* November 1983, 754 and 757.

[17] When the Fifth Quadrennial Review was making its recommendations to Congress concerning hostile fire pay rates in 1983–84, the entitlement to hostile fire pay was $65 per month. As previously indicated, the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §628, 99 Stat. 583, 649 (1985), effectively increased this entitlement to $110 per month. See discussion of amendment to 37 U.S.C. §301(c)(1) effected by the 1986 Authorization Act, above. At $110 per month, the present entitlement to hostile fire pay may be thought by some to be more than a "token" payment.

[18] See discussion of the provisions for hostile fire pay in the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §9, 77 Stat. 210, 216 (1963), and its background at text associated with footnotes 5 through 8 to this chapter, above.

[19] Earlier, in the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §1111(a), 104 Stat. 1485, 1635 (1990), Congress specifically authorized the Secretary of Defense to "provide for the payment of imminent danger pay ...to members of the Armed Forces assigned to duty in the Persian Gulf area in connection with Operation Desert Shield with respect to periods of duty served after August 1, 1990, and before the date of enactment of this Act [November 5, 1990]."

[20] Although the Persian Gulf conflict provided the impetus for the increase in the rate of special pay for duty subject to hostile fire or imminent danger, the rate increase was not limited in its applicability to the Persian Gulf area. Any member of the uniformed services subject to hostile fire or imminent danger anywhere in the world was entitled to the increased rate of pay during the applicable period.

[21] See H.R. Rep. No. 102-16 (Committee on Armed Services), pt. 1, at 10, accompanying H.R. 1175, 102d Cong., 1st sess. (1991). The House report—H.R. Rep. No. 102-16 (Part 1)—was issued on H.R. 1175, 102d Cong., 1st sess.

another bill that would have provided several special benefits to members of the armed forces serving in the Persian Gulf in support of Operation Desert Shield/Desert Storm. In support of its proposal, the Senate cited both the effects of inflation and the danger service members faced in the Persian Gulf:

> The Committee notes that the last time the pay was increased was in 1985. The increase proposed in this section would adjust the previous amount to match inflation. The Committee believes that military personnel deserve this increase in recognition of the dangerous circumstances in which they are serving.[22]

The temporary increase to $150 per month in the rate of pay for duty subject to hostile fire or imminent danger was made permanent in the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §613, 105 Stat. 1290, 1377 (1991). No particular reason was given by either the House or Senate for making the increase permanent.[23]

In addition to making the temporary increase to $150 per month permanent, the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §611, 105 Stat. 1290, 1373 (1991), also repealed the prohibition on payment of hostile fire or imminent danger pay during time of war declared by Congress. Ignoring the earlier rationale that such pay was not justified in times of "full mobilization" because then "practically everybody may be subject to hostile fire,"[24] the House Armed Services Committee indicated that it thought the prohibition should be repealed because it could "create pay inequities in future conflicts like Operation Desert Storm."[25]

As a result of several operations in which U.S. forces were involved over the course of the 1990s, and the increasing threat of terrorism around the globe, many areas were designated as imminent danger areas, for at least a time, between the start of Desert Shield in August 1990 until the attacks of September 11, 2001.

In August 1990, Kuwait, Saudi Arabia and the Persian Gulf were designated. Bahrain, Oman, Qatar, UAE, the Red Sea, the Gulfs of Oman and Aden, and a portion of the Arabian Sea were also designated (but their designations were terminated in August 1993). In August 1990, Liberia and Yemen were designated (the designation for Yemen was terminated in February 1998). Iraq was designated in September 1990. Turkey was designated in February 1991. Egypt, Jordan, Israel, and Syria were designated that same month (but their designation ended in December 1991).

Designations in June 1992 included: Bosnia-Herzegovina; Macedonia; the former Federal Republic of Yugoslavia, Croatia, and Slovenia (the latter was terminated in September 1995); Angola; and Mozambique and Chad (both terminated in February 1998). In September 1992, Somalia was designated, followed by Sudan in October 1993, Haiti in September 1994, Algeria in March 1995, Azerbaijan in June 1995, Karachi, Pakistan, in October 1995; and Burundi, Zaire, and the rest of Pakistan in November 1996.

In 1997 several new locations were added: In January, Athens, Greece, Egypt, and Jordan; Tajikistan in March; Albania in May (through March 2002); Bahrain in June, Sierra Leone in July, Qatar in August; and Rwanda in October 1997.

(1991), but the bill ultimately adopted as the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, 105 Stat. 75 (1991), was S. 725, 102d Cong., 1st sess. (1991). No report was issued on S. 725.

[22] S. Rep. No. 102-9 (Committee on Armed Services), at 2, accompanying S. 237, 102d Cong., 1st sess. (1991).

[23] See, e.g., H.R. Rep. No. 102-60 (Committee on Armed Services), at 248, accompanying H.R. 2100; S. Rep. No. 102-113 (Committee on Armed Services), at 226, accompanying S. 1507; and H.R. Rep. No. 102-311 (Committee of Conference), at 549, accompanying H.R. 2100, 102d Cong., 1st sess. (1991).

[24] See text accompanying footnote 6 to this chapter, above.

[25] H.R. Rep. No. 102-60 (Committee on Armed Services), at 248, accompanying H.R. 2100, 102d Cong., 1st sess. (1991). See H.R. Rep. No. 102-311 (Committee of Conference), at 549, accompanying H.R. 2100, 102d Congress, 1st sess. (1991).

As a result of operations in the Kosovo crisis in 1999, the following areas were designated for imminent danger pay: the Adriatic Sea and portions of the Ionian Sea (from April to September 1999); and specific areas in Greece, Hungary, and Italy from May through mid-September 1999.

Yemen was again designated for imminent danger pay in May 1999, followed by East Timor and Ethiopia in September 1999, and Uganda in January 2000. Following the attacks of September 11, 2001, hostile fire pay was paid for the first time to members of the uniformed services in the United States who were subject to the hostile acts of the terrorists on that day.

As U.S. forces commenced to fight the "Global War on Terrorism," several additional areas were designated for imminent danger pay in September 2001: Kyrgyzstan, Uzbekistan, Oman, United Arab Emirates, the Red Sea, the Gulfs of Aden and Oman, and a portion of the Arabian Sea. The designation for Indonesia and Malaysia followed in October 2001; Israel in January 2002; Djibouti, Eritrea, Kenya, and all of the Republic of Georgia in July 2002, and Côte d'Ivoire in February 2003.

In connection with Operation Iraqi Freedom, most areas in which uniformed personnel were assigned had already been designated for imminent danger pay, and thus, the only new area designated was a portion of the Mediterranean Sea (designated from April through July 2003). The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1136 (2001), provided for hazardous duty pay for members of maritime visit, board, search and seizure teams.

In order to reward military personnel participating in Operation Enduring Freedom, which began in 2001, and Operation Iraqi Freedom, which began in 2003, the Emergency Wartime Supplemental Appropriations Act of 2003, Pub. L. No. 108-11, 117 Stat. 559 (2003), increased hostile fire pay from $150 to $225 per month. This increase covered only Fiscal Year 2003, the period from October 2002 to September 2003.

In their respective considerations of the National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1392 (2003), the House and Senate took differing approaches to continuation of this increase. The Senate version of the bill made the increase permanent. The House version, echoing the position of the Bush administration, called for the higher rate in 2004 only for members involved in Operation Enduring Freedom and Operation Iraqi Freedom, who would continue to receive this rate only until the President declared those operations terminated. The position of the Bush administration was that an across-the-board increase in hostile fire pay had no meaning as a reward for service in Afghanistan and Iraq if members in many other areas received the same amount. However, members of Congress argued that reducing the hostile fire allowance after the 2003 increase would constitute a pay cut for United States occupation forces at many locations in the world. The conference resolution endorsed the Senate version, extending the higher rate of hostile fire pay through 2004 and continuing the eligibility of members in all regions designated as hostile fire or imminent danger zones.

The National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004), extended the authority to provide hazardous duty incentive pay to military firefighters at a monthly rate not to exceed $150, which eliminated the previous construct that linked hostile fire pay to the lowest rate of hazardous duty incentive pay.

The National Defense Authorization Act for Fiscal Year 2010 clarifies that the monthly payment of hostile fire and imminent danger pay may be prorated to reflect the actual qualifying service that members performed during the month, and sets the maximum amount received at $225 per month.[26] The National Defense Authorization Act for Fiscal Year 2012 stipulates that hostile fire and imminent danger pay that is based on presence in a qualifying area be prorated at the rate of 1/30 of the monthly amount for each day spent in the qualifying area. This law authorizes the payment of the full monthly amount of hostile

[26] National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84, Title VI, Subtitle B, Sec. 618, 123 Stat 2190, 2355 (2009).

fire and imminent danger pay when eligibility for such pay is based on actual exposure to hostile fire or a hostile mine explosion.[27]

Since 1963, the following zones have been designated as hostile fire pay areas: the Adriatic Sea, Afghanistan, Albania, Angola, the Arabian Gulf region, a portion of the Arabian Sea, Azerbaijan, Bahrain, Bosnia and Herzegovina, Burundi, Cambodia, Chad, Colombia, Côte d'Ivoire, Croatia, Djibouti, East Timor, Egypt, El Salvador, Eritrea, Ethiopia, Georgia, Greece, Grenada and Carriacou, the Gulf of Aden, the Gulf of Oman, Haiti, Hungary, Indonesia, the northern portion of the Ionian Sea, Iran, Iraq, Israel, portions of Italy, Jordan, Kenya, Kuwait, Kyrgyzstan, Laos, Lebanon, Liberia, Macedonia, Malaysia, the eastern portion of the Mediterranean Sea, Montenegro, Mozambique, Oman, Pakistan, Panama, Peru, the Philippines, Qatar, the Red Sea, Rwanda, Saudi Arabia, Serbia, Sierra Leone, Slovenia, Somalia, Sudan, Syria, Tajikistan, Turkey, Uganda, the United Arab Emirates, Uzbekistan, Vietnam, Yemen, and Zaire.

As of September 2016, the following countries and regions retained their designation, or had been removed from the list and later re-designated: Afghanistan, Algeria, portions of the Arabian Sea, Azerbaijan, Burundi, Chad, Colombia, Côte d'Ivoire, Cuba (JTF Guantanamo Bay Detention Facilities only), Democratic Republic of the Congo (formerly Zaire), Djibouti, Egypt, Eritrea, Ethiopia, Greece (only the immediate Athens area), Indonesia, Iran, Iraq, Israel, Jordan, Kenya, Lebanon, Malaysia, Pakistan, Somalia, The Somali Basin, South Sudan, Sudan, Syria, Turkey, Uganda, Yemen.[28] Some designations are for the land area of a country or region, others for the land area and airspace above. Bodies of water have been designated as sea area, airspace, or both. Hostile fire pay also has been authorized from time to time for military personnel assigned to service in U.S. embassies abroad that have come under attack.

Current rate of hostile fire pay: $225 per month.

Cost: For the cost of hostile fire/imminent danger pay from 1972 to 2016, see table II-7, below.

[27] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle B, Sec. 616, 125 Stat. 1298, (2011); H. Rep. No. 112-329 (Conference) To Accompany H. R. 1540 at 648 (2011).
[28] "Special Pay: Duty Subject to Hostile Fire or Imminent Danger," in *Department of Defense Financial Management Regulation 7000.14R*, 7A, ch. 10 (May 2009).

Table II-7. Hostile Fire Pay/Imminent Danger Pay, 1972–2016

Calendar Year	Total Personnel	Cost ($000)	Total Officers	Cost ($000)	Total Enlisted	Cost ($000)
1972	356,800	$112,917	---	---	---	---
1973	168,222	32,021	---	---	---	---
1974	4,612	1,734	---	---	---	---
1975	8,733	1,675	---	---	---	---
1976	881	135	---	---	---	---
1977	750	559	---	---	---	---
1978	648	393	---	---	---	---
1979	1,012	233	---	---	---	---
1980	78	28	---	---	---	---
1981	167	49	---	---	---	---
1982	4	3	1	$1	3	$2
1983	1,044	184	29	23	1,015	161
1984	3,646	2,843	533	415	3,113	2,428
1985	314	245	172	135	142	110
1986	256	336	109	143	147	193
1987	1,995	2,856	875	1,378	1,120	1,478
1988	9,889	13,247	1,560	2,253	8,329	10,994
1989	4,137	5,459	573	756	3,564	4,703
1990	33,000	43,561	3,521	4,648	29,479	38,913
1991	327,333	565,752	34,854	62,737	292,479	503,015
1992	47,241	85,035	6,072	10,930	41,169	74,105
1993	53,134	95,641	7,715	13,887	45,419	81,754
1994	36,929	66,473	6,074	10,934	30,855	55,539
1995	45,891	82,603	7,337	13,206	38,554	69,397
1996	55,723	100,301	10,014	18,025	45,709	82,276
1997	57,894	104,208	9,581	17,245	48,313	86,963
1998	70,147	124,499	11,652	19,209	58,495	105,290
1999	73,573	132,432	12,595	22,671	60,978	109,761
2000	56,810	102,259	10,522	18,941	46,288	83,318
2001	54,951	98,912	8,732	15,717	46,219	83,195
2002	78,289	140,921	12,296	22,133	65,993	118,788
2003	322,681	871,239	43,147	116,497	279,534	754,742
2004	198,534	536,042	35,161	94,935	163,373	441,107
2005	277,106	748,187	47,216	127,484	229,890	620,703
2006	257,687	695,742	36,891	99,604	220,796	596,138
2007	263,209	710,774	34,808	94,092	228,401	616,682
2008	291,469	786,970	41,740	112,700	249,729	674,270
2009	292,438	789,602	44,250	119,495	248,188	670,107
2009	292,438	789,582	44,250	119,475	248,188	670,107
2010	300,025	823,633	42,351	127,913	257,674	695,720
2011	270,111	729,300	42,438	114,581	227,673	614,719
2012	194,189	524,306	31,563	85,218	162,626	439,088
2013	139,673	377,116	24,397	65,872	115,276	311,244
2014	94,599	255,418	16,616	44,862	77,983	210,556

Calendar Year	Total Personnel	Cost ($000)	Total Officers	Cost ($000)	Total Enlisted	Cost ($000)
2015	32,281	87,159	6,506	17,567	25,775	69,592
2016[1]	7,267	19,619	2,904	7,840	4,363	11,779

[1] Estimate.

--- **Note:** No information is available on the breakout between officers and enlisted personnel prior to 1982.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.D.1.a.(2)
Demolition Duty Pay

Legislative Authority: 37 U.S.C. §301(a)(4) and (c)(1).

Purpose: To provide an additional pay to increase the ability of the uniformed services to attract and retain personnel for duty involving the demolition or neutralization of explosives, and to compensate for the more than normally dangerous character of such duty.

Background: The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(a)(7), 63 Stat. 802, 809–10 (1949), added "duty involving the demolition of explosives as a primary duty, including training for such duty," to the list of duties for which incentive pay for hazardous duty was authorized. Rates of pay for this duty, commonly referred to simply as "demolition duty," were initially set at $100 a month for officers and $50 a month for enlisted personnel, the same as all other categories of hazardous duty incentive pay with the exception of flight pay and submarine duty pay [Section 204(a)(7) and (c) of the Career Compensation Act, at 63 Stat. 810].[1]

In 1948, at the request of the Secretary of Defense, the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission, undertook the first comprehensive study of the military pay system since 1908. The study concluded that, although special pays such as demolition duty pay were designed in part to compensate for arduous and hazardous duties, their main purpose should be to fill a supply–demand function—namely, to induce personnel to enter upon and remain in hazardous military occupations. The commission's rationale underlying this conclusion was that:

> The Commission, after reviewing previous studies, hearing presentations by the Services, and personally observing representative operational and training activities, is of the unanimous opinion that some additional pay should be awarded to individuals who, on a voluntary basis, carry out peacetime functions involving more than the ordinary military risk and danger....
>
> Close examination of the nature of hazardous duty and the expressed or implied reasons for accepting risks indicated that the incentive to engage and remain in hazardous occupations provided a more realistic and practical basis for determining the rates of special pay than the theory of recompense for shorter career expectancy. The recompense or replacement concept, although promoted for many years as the sole argument for hazard pay, was found wanting for several reasons.[2]

The Hook Commission's rationale for higher demolition duty pay for officers than for enlisted personnel, which was adopted in the Career Compensation Act of 1949, ch. 681, Pub. L .No. 81-351, §204(a)(7), 63 Stat. 802, 809–10 (1949), was as follows:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional pay.

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[1] After enactment of the Career Compensation Act of 1949, ch. 681, *id*., the provisions for hazardous duty incentive pay thereof, including demolition duty pay, were in the main classified to 37 U.S.C. §235, and the provisions for demolition duty pay were found at 37 U.S.C. §235(a)(7) and (c). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the provisions for hazardous duty pay, including the demolition duty pay here in issue, were codified at 37 U.S.C. §301.

[2] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 24.

> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.
>
> (3) Officers are usually given greater responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.[3]

Although it is not altogether clear, Congress apparently accepted the conclusions of the Hook Commission concerning hazardous duties in general, and demolition duties in particular.[4] In any event, demolition duty was added to the list of duties for which hazardous duty incentive pay was authorized, and an officer–enlisted pay differential was adopted—in keeping with the Hook Commission's recommendations.

Pay rates for demolition duty were raised by 10 percent to $110 and $55 per month for officers and enlisted personnel, respectively, by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(6), 69 Stat. 18, 21 (1955), and remained at that level until October 1, 1981. At that time, rates for enlisted personnel were increased 50 percent to $83 per month by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(c)(3), 95 Stat. 989, 993 (1981). As explained in the Senate report, the 1981 increases were made in recognition of the fact that hazardous duty incentive pay rates had "not been adjusted in more than 20 years, and this increase is needed to enhance the incentive value of this pay."[5]

Pay rates for demolition duty for enlisted personnel were further increased to $110 per month in 1985 by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 99 Stat. 583, 648 (1985). This increase was effected by an amendment to 37 U.S.C. §301(c)(1) that did away with any distinction between officers and enlisted personnel for the vast majority of duties qualifying for hazardous duty incentive pay, specifically including demolition duty pay. Prior to amendment by the 1986 Authorization Act, 37 U.S.C. §301(c)(1) read as follows:

> For the performance of the hazardous duty described in [various clauses of subsection (a) of 37 U.S.C. §301, including explosives demolition duty], an officer is entitled to $110 a month and an enlisted member is entitled to $83 a month.

After amendment by the 1986 Authorization Act, 37 U.S.C. §301(c)(1) reads as follows:

> For the performance of hazardous duty described in [the same clauses set out above, including demolition duty], a member is entitled to $110 a month.[6]

Thus, under the then-current 37 U.S.C. §301, all members, both officers and enlisted personnel,[7] were entitled to $110 per month for the performance of explosives demolition duties under qualifying orders.

The legislative history of the 1986 Authorization Act per se does not indicate the reason for eliminating the distinction between officers and enlisted personnel with respect to the rates of pay authorized for explosives demolition duties. This is primarily because no report was ever submitted on the

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[3] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[4] For a short discussion of the treatment accorded hazardous duty incentive pays under the Career Compensation Act of 1949, ch. 681, *id*., see H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, and S. Rep. No. 81-733 (Committee on Armed Services), at 18–19, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[5] S. Rep. No. 97-146, at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[6] The increase in rates for hazardous duty incentive pay for enlisted personnel engaged in explosives demolition duties became effective October 1, 1985. See Section 635(b) of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(b), 99 Stat. 583, 648 (1985).

[7] The term "member" is defined in 37 U.S.C. §101(23) to mean "a person appointed or enlisted in, or conscripted into, a uniformed service." As such, "member" includes both officers and enlisted personnel.

Senate bill, S. 1160, in which the proposal to equalize the rates of demolition pay for officers and enlisted personnel was made.[8] In fact, however, the proposal to equalize officer and enlisted rates of pay for various hazardous duties, including demolition duty, had been made the preceding year in connection with the consideration of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984). At that time, the Senate Committee on Armed Services, reporting out S. 2723, 98th Cong., 2d sess. (1984), had included a provision that would, among other things, have equalized officer and enlisted rates of hazardous duty incentive pay for demolition duty.[9] In support of its recommendation, the committee stated:

> The committee proposes that the enlisted and officer rates for several hazardous duty incentive pays be equalized....
>
> The Fifth Quadrennial Review of Military Compensation (QRMC) examined special and incentive pays in great detail. One of its conclusions was that the differential between enlisted and officer rates for seven hazardous duty incentive pays [including demolition duty pay] should be eliminated....
>
> The committee agrees that enlisted and officer personnel should be paid the same incentive for exposing themselves to similar hazards. Therefore, it recommends that the

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[8] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

> ... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.
>
> When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....
>
> Most of Senate Report 99-41 continues to be applicable to this bill.

131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... In addition, the Committee recommended increases or enhancements to a number of special and incentive pays....
>
> The special and incentive pays ... involved in these recommendations include:
>
> g. Hazardous duty pays.
>
> Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither S. Rep. No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the hazardous duty incentive pay program in general, or to the demolition duty pay program in particular, that were contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

[9] See Section 148 of S. 2723, 98th Cong., 2d sess. (1984).

rates for these seven hazardous duty pays be changed to entitle both enlisted and officer personnel to $110 per month.[10]

The Senate proposal was eliminated in conference.[11]

As indicated immediately above, the demolition pay "enhancements" adopted as part of the 1986 Authorization Act closely parallel recommendations advanced by the Fifth Quadrennial Review of Military Compensation in 1984.[12] In support of its recommendation to "[a]ward officer and enlisted personnel $110 per month for performance of demolition duty,"[13] thereby eliminating officer–enlisted differentials for that pay, the Fifth Quadrennial Review stated:

A. A valid need for Demolition Duty Pay currently exists and will exist in the foreseeable future.

1. Demolition duty, particularly in the Explosive Ordnance Disposal (EOD) field, exposes personnel to greater risks than those encountered by most Service personnel.

2. Enlisted manning in demolition fields, especially EOD, is below required levels.

3. Low attraction of personnel to demolition fields is a primary cause of undermanning.

4. High attrition in EOD training is also a major cause of undermanning.

5. Retention of personnel in demolition fields is generally satisfactory.

B. Current rates of Demolition Duty Pay [DDP] are generally adequate to compensate for the hazards of demolition duty.

1. The rate of DDP should be uniform for officers and enlisted personnel.

2. A DDP rate of $110 per month for both officers and enlisted personnel is currently appropriate.

3. Judicious use of other special and incentive pays, *i.e*. Enlistment Bonuses, SRBs [Selective Reenlistment Bonuses], and the proposed Special Duty Assignment Pay (replaces Proficiency Pay) along with other management actions should continue in order to resolve manning, attraction and retention problems and maintain satisfactory retention level.[14]

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[10] S. Rep. No. 98-500 (Committee on Armed Services), at 210 (discussing section 148 of the Senate bill), accompanying S. 2723, 98th Cong., 2d sess. (1984).

[11] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[12] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ...proposing changes" to the compensation system of the uniformed services. The Fifth Quadrennial Review of Military Compensation was convened in 1982, pursuant to presidential directive, and its report and recommendations were submitted to Congress in early 1984.

[13] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 84. Also see *id*., 3; and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-4.

[14] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 83–84. Also see *id*., 2–3; and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-4.

In further comment on officer–enlisted differentials for various hazardous duty incentive pays, including explosives demolition duty, the Fifth Quadrennial Review stated:

> During the process of reviewing the various Hazardous Duty Incentive Pays, it became increasingly clear that, although there is some incentive associated with certain pays, the primary purpose is recognition for the hazards or risks involved. It was, therefore, believed that officer/enlisted personnel should receive the same level of payment for seven of the Hazardous Duty Incentive Pays: [including] ... demolition [duty pay]....[15]

In arriving at this conclusion, the Fifth Quadrennial Review implicitly rejected the conclusions reached by the Hook Commission in 1948.[16] In commenting on various arguments that had been advanced in favor of and against continuation of officer–enlisted differentials for hazardous duty incentive pays in general, the Fifth Quadrennial Review summarized the argument against the Hook Commission's position in the following terms:

> The Hook Commission rationale was based primarily on an examination of the needs of the aviation and submarine communities. Times have changed and those communities now have their own separate career incentive pays and bonuses.[17]

Other arguments in favor of eliminating the differential were summarized as follows:

* All personnel, officer and enlisted, experience the same hazards.

* One can never really compensate for risk of life, no matter the level.

* Basic pay and bonuses are adequate to cover any differential.

* Most hazard-related pays now cover skills that are not necessarily career oriented (across all services); hence, a differential is not necessary for purposes of retention. However, exceptions may occur and should be individually addressed, as required.

* [F]ield interviews [conducted by the Fifth Quadrennial Review of Military Compensation] with both officer and enlisted personnel indicate "same rate for same risk" is perceived as equitable in the hazardous duty areas.[18]

Whether for these or some other reasons, Congress did in fact eliminate officer–enlisted pay differentials for explosives demolition duties in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

As indicated above, the purpose of providing a special pay for demolition duty is to encourage personnel to enter and remain in a career involving the demolition or neutralization of explosives despite the frequent and sometimes nearly continuous exposure to the various hazards implicit in that duty. To carry out this purpose, Section 109(b) of Executive Order 11157 of June 22, 1964, as amended,[19] established performance requirements—minimum exposure standards, normally exceeded by personnel performing the duty on a full-time basis—which must be met to qualify for the pay. The pay is not awarded for meeting the minimum exposure standard; it is paid for facing as much exposure as the needs of the service may require during a period of qualifying duty. A member who, as a primary assignment, engages in demolition

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[15] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pay*s, November 1983, 919. See *id*., 36–37.

[16] See discussion of Hook Commission recommendations concerning officer–enlisted differentials at text accompanying footnote 3 to this chapter, above.

[17] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 920; *cf. id*., 37.

[18] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 919–20.

[19] Reproduced, as amended, at 37 U.S.C. §301 note.

duty or training using live explosives or neutralizes an explosive device during any month meets the minimum exposure standard and qualifies for the extra pay for that month.[20]

Reserve forces personnel[21] entitled to compensation for inactive-duty training are entitled to demolition duty pay when they perform qualifying duties under competent orders, provided Congress has appropriated sufficient funds for that purpose.[22]

Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying demolition duties while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[23] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying duty under 37 U.S.C. §301(f), also entitled to 1/30th of the demolition duty pay that would be payable to a member of the active-duty force who was performing such duties. Under conditions prescribed by the relevant Secretary, a member of a reserve force who performs demolition duties under 37 U.S.C. §301(f) while engaged in inactive-duty training is entitled to demolition duty pay. See Executive Order 13294 (2003).[24]

Hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive-duty reserve forces personnel engaged in hazardous duties of one kind of another.[25] In fact, however, explosives demolition duties were not covered by the Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled. The first special provision for

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[20] *Department of Defense Financial Management Regulation*, *Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶¶ 20331–20334.

[21] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[22] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, demolition duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for demolition duty are explicitly made contingent on Congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[23] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—basically, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[24] Reproduced, as amended, at 37 U.S.C. §301 note. Also see *Department of Defense Financial Management Regulation*, *Military Pay and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶ 80316.

[25] For a discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)."

demolition duty pay for reserve forces personnel engaged in inactive-duty training came in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(a)(7), 63 Stat. 802, 809–10 (1949).

The Career Compensation Act of 1949 restated prior provisions of law relating to the entitlement of reserve forces personnel to special pay for the performance of hazardous duties while engaged in inactive-duty training. Section 501 of the Career Compensation Act, ch. 681, *id*., §501, 63 Stat. 825–27, dealt generally with the entitlement of reserve forces personnel to compensation for inactive-duty training. Subsection (d) of Section 501 generalized the entitlements to hazardous duty incentive pay of reserve forces personnel performing inactive-duty training by providing that hazardous duty incentive pay was available to such personnel whenever they were required by competent orders to perform any of the hazardous duties, set out at Section 204(a) of the Career Compensation Act of 1949, for which active-duty personnel were entitled to hazardous duty incentive pay. The duties set out in Section 204(a) as qualifying for such pay included crew member and non-crew member flight duties, submarine duties, glider duties, parachute jumping duties, leprosy duties, explosives demolition duties, duty at a submarine escape training tank, and duty with certain diving units. [See Section 204(a)(7) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a)(7), 63 Stat. 809–10.][26] No special reason was given for this reorganization of the provisions of prior law dealing with inactive-duty training pays, including inactive-duty training incentive pays for hazardous duties. The extension of incentive pay for hazardous duty to new classes of reserve forces personnel—e.g., to reserve forces personnel in an inactive-duty training status performing leprosy duties, explosives demolition duties, submarine escape training tank duties, etc.—appears to derive from the extension of such pays to active-duty personnel, and not from any special concern about reserve forces personnel and whether they should be entitled to incentive pay for performance of various hazardous duties.[27]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §647, 99 Stat. 583, 655 (1985), amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hour resources.
>
> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP

[26] The inactive-duty training pay provisions contained in Section 501 of the Career Compensation Act of 1949, ch. 681, *id*., §501, 63 Stat. 825–27, were classified to 37 U.S.C. §301, whereas the provisions for hazardous duty incentive pay set out in Section 204 of the Career Compensation Act, ch. 681, *id*., §204, 63 Stat. 809–10, were classified to 37 U.S.C. §235. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions relating to hazardous duty incentive pay entitlements of reserve forces personnel were codified at 37 U.S.C. §301, together with the hazardous duty incentive pay provisions relating to active-duty personnel. The current structure of entitlements to demolition duty pay for reserve forces personnel performing inactive-duty training thus derives from the organization imposed on Title 37 by the Act of September 7, 1962, Pub. L. No. 87-649, *id*.

[27] The Hook Commission, whose report led to the adoption of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), did not concern itself with reserve forces compensation in any way. See e.g., "Terms of Reference," the charter given to the Hook Commission by the then Secretary of Defense, James Forrestal, in *Career Compensation for the Uniformed Forces,* A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, vii–viii.

for flying be permitted to credit active duty or inactive duty training flight time to fulfill active or inactive duty flight time requirements.[28]

While the concern that led to the amendment in issue was the appropriate use and apportionment of flying time, the amendment to 37 U.S.C. §301(f) was stated in broader terms, so that it applies to any of the hazardous duties set out in 37 U.S.C. §301(a), including explosives demolition duty, and not just flight duty. Thus, for any month in which a member of a reserve force is involved both in active-duty and inactive-duty training for which the member is entitled to demolition duty pay under the provisions for hazardous duty incentive pay in 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on the combined entitlement for both active duty and inactive-duty training.

The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1770 (1997) raised the rate of demolition duty pay from $110 per month to $150 per month. Until 2003, the conditions of entitlement to demolition duty pay for both active-duty and reserve forces personnel were set out in Section 109(b) of Executive Order 11157, as amended,[29] in various supplementary regulations adopted by the service secretaries pursuant to Section 113 of Executive Order 11157, and the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R. Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to demolition pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments.

Current rate of demolition duty pay: $150 per month.

Cost: For the cost of demolition duty pay from 1972 to 2016, see table II-8, below.

Table II-8. Demolition Duty Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	3,842	$2,963	648	$853	3,194	$2,108
1973	3,383	2,608	571	753	2,812	1,855
1974	3,301	2,509	501	661	2,800	1,848
1975	2,989	2,326	534	705	2,455	1,621
1976	2,982	2,300	502	662	2,480	1,638
1977	2,814	2,170	475	627	2,339	1,543
1978	3,005	2,355	563	743	2,442	1,612
1979	3,236	2,539	610	806	2,626	1,733
1980	3,402	2,644	604	797	2,798	1,847
1981	3,541	2,753	630	832	2,911	1,921
1982	3,766	3,949	615	811	3,151	3,138
1983	3,886	4,051	559	738	3,327	3,313
1984	3,943	4,113	570	754	3,373	3,359
1985	4,166	4,341	594	784	3,572	3,557
1986	4,454	5,879	642	847	3,812	5,032
1987	4,475	5,907	667	880	3,808	5,027

[28] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).
[29] Reproduced, as amended, at 37 U.S.C. §301 note.

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1988	4,441	5,862	658	868	3,783	4,994
1989	4,329	5,714	647	853	3,682	4,861
1990	4,686	6,185	671	885	4,015	5,300
1991	4,857	6,412	679	897	4,178	5,515
1992	4,709	6,216	640	845	4,069	5,371
1993	4,475	5,906	606	800	3,869	5,106
1994	4,586	6,054	597	788	3,989	5,266
1995	4,113	5,429	546	721	3,567	4,708
1996	4,232	5,588	539	713	3,693	4,875
1997	4,508	5,950	506	668	4,002	5,282
1998	4,689	8,203	566	984	4,123	7,219
1999	4,523	8,141	484	871	4,039	7,270
2000	6,122	11,019	775	1,394	5,347	9,625
2001	6,837	12,306	1,048	1,886	5,789	10,420
2002	7,262	13,072	1,144	2,060	6,118	11,012
2003	8,447	15,204	1,276	2,296	7,171	12,908
2004	10,959	19,725	1,329	2,391	9,630	17,334
2005	7,536	13,566	1,256	2,261	6,280	11,305
2006	8,482	17,991	1,475	2,654	7,007	15,337
2007	10,439	18,798	1,567	2,827	8,872	15,971
2008	12,325	22,185	1,764	3,175	10,561	19,010
2009	17,043	30,678	2,318	4,173	14,725	26,505
2010	22,568	39,249	2,493	4,488	20,075	34,761
2011	19,326	34,099	2,630	4,735	16,696	29,364
2012	20,720	37,296	2,746	4,942	17,974	32,354
2013	20,083	36,149	2,754	4,957	17,329	31,192
2014	19,122	34,419	2,731	4,915	16,391	29,504
2015	18,485	33,274	2,775	4,995	15,710	28,279
2016[1]	18,226	32,808	2,757	4,963	15,469	27,845

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.D.1.a.(3)
Special Pay for Officers Holding Positions of Unusual Responsibility

Legislative Authority: 37 U.S.C. §306.

Purpose: To provide an additional pay for officers occupying certain critical positions carrying more significant responsibilities than those normal for officers of the same grade.

Background: Responsibility pay was first authorized for officers in the Act of May 20, 1958 (Uniformed Services Pay Act of 1958), Pub. L. No. 85-422, §1(8), 72 Stat. 122, 126–27 (1958), at the rate of $150 a month for officers in pay grade O-6, $100 a month for officers in pay grade O-5, and $50 a month for officers in pay grades O-4 and O-3. As originally adopted, responsibility pay was limited to officers in pay grades O-3 through O-6. This special pay was adopted at the recommendation of the Senate Armed Services Committee, not at the urging of the administration. The committee explained its recommendation as follows:

> The committee recommended this provision because of the following factors:
>
> (1) Under the present pay system, an officer's pay is determined principally by his rank. It is recognized that both the abilities and responsibilities of officers within a particular grade vary to a considerable degree.
>
> (2) The changing nature and complexity of our weapons systems are creating demands for unusual responsibility in both staff and command assignments, or a combination of both. These responsibilities, in many cases, may be distinguishable from the bulk of others held by those in that rank.
>
> (3) Neither the present pay system nor the promotion system adequately acknowledges this type of individual. An example is shown by the fact that even though an officer may be occupying and adequately performing in a position of unusual responsibility, he nevertheless may be prohibited from receiving additional pay because of the fact that he is not within a so-called zone of consideration for promotion, which is based solely on the length of service in the particular grade.
>
> (4) The changing nature of our military services is requiring greater leadership in the scientific fields as well as command leadership in the usual sense. In the Air Force, for instance, the proportion of officers in the technical fields will grow from 55 percent in a B-52 wing to approximately 75 percent in an intercontinental ballistic missile unit.[1]

In connection with congressional consideration of the bill that became the Uniformed Services Pay Act of 1963, Public Law 88-132, 77 Stat. 210 (1963), the Department of Defense recommended that the statutory authority for responsibility pay be repealed, and the bill passed by the House in fact did so. However, the repeal provision was deleted in the Senate, and the House later concurred in this action. In addressing itself to the attempted repeal, the Senate Armed Services Committee noted:

> The Bill as passed by the House contained a provision which would repeal the system of responsibility pay enacted as a part of the Military Pay Act of 1958. The Senate Committee on Armed Services deleted the House provision and therefore provided for the retention of the system of responsibility pay.
>
> As a result of the recommendation of the Senate Committee on Armed Services, the Military Pay Act of 1958 introduced in the military pay system a new feature known as responsibility pay, for certain officers who occupy positions of unusual responsibility.

[1] S. Rep. No. 1472 (Committee on Armed Services), at 7–8, accompanying H.R. 11470, 85th Cong., 2d sess. (1958).

> This system, which was permissive, has never been implemented by the Department of Defense.
>
> The Department of Defense suggested the repeal of this authority on two grounds:
>
> 1. That there should be no distinction between persons of equal rank and length of service for the purpose of pay since rank itself should be considered equal with responsibility.
>
> 2. That it would be difficult to administer without serious problems of equity and morale.
>
> The Committee is of the opinion that this system should be retained for the following reasons:
>
> 1. The fact that the system has not been used does not necessarily mean that the provision is unsound. Both the Navy and the Air Force have urged its implementation.
>
> 2. The basic premise of the provision is that the relatively small number of officers holding positions of much greater responsibility than occur in normal assignments might well be rewarded with some additional compensation. Both the abilities and responsibilities of an officer within a particular grade vary to a considerable degree. The military services already recognize this variance for the purpose of assignments. Both the additional responsibility and often the longer hours that accompany such assignments would provide an added incentive for superior achievement.[2]

The Oceans Act of 1992, Pub. L. No. 102-587, §5205(a), 106 Stat. 5039, 5074 (1992), extended the authorization for responsibility pay to all officers below pay grade O-7.[3] As statutorily authorized, not more than 10 percent of officers in pay grades O-4, O-5, and O-6 in any armed force may be paid responsibility pay at the same time, and not more than 5 percent of officers in pay grade O-3 and below in any armed force may be paid responsibility pay at the same time.

The Department of Defense made only limited use of responsibility pay prior to 1980.[4] Army and Navy officers in Vietnam holding the unique civil-military positions of senior province/district advisers or riverine forces advisers were paid responsibility pay in an attempt to induce them to voluntarily remain in such positions longer than the one-year period of duty prescribed for a combat zone. The Department of Transportation made somewhat broader use of the authority, having designated the position of commanding officer of Coast Guard vessels as a critical position of unusual responsibility. Responsibility pay has been paid to Coast Guard officers in pay grades O-3 through O-6 who have been assigned to and were serving as commanding officers of Coast Guard vessels since July 1, 1973. Beginning in fiscal year 1980, the Navy authorized responsibility pay for officers designated under NavOp 75-80, which includes, with some exceptions, most officers entitled to wear the Command at Sea Pin. The only Department of Defense personnel currently authorized responsibility pay are Navy officers in pay grades O-6 and below, occupying designated command positions.

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[2] S. Rep. No. 387 (Committee on Armed Services), at 29–30, accompanying H.R. 5555, 88th Cong., 1st sess. (1963).

[3] Under the definition set out at 37 U.S.C. §101(11), the term "officer" includes both commissioned and warrant officers.

[4] Under the provisions of 37 U.S.C. §306(e), responsibility pay may not be paid to medical personnel entitled to special pay under 37 U.S.C. §302 (medical officers of the armed forces), §302a (optometrists), §302b (dental officers of the armed forces), or §303 (veterinarians).

Current rates of responsibility pay: The current rates of responsibility pay are as follows:

Pay Grade	Amount
O-6	$150
O-5	$100
O-4 and below	$50

Cost: For the cost of responsibility pay from 1972 to 2016, see table II-9, below.

Table II-9. Responsibility Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	328	202
1973	108	85
1974	0	0
1975	0	0
1976	0	0
1977	0	0
1978	0	0
1979	0	0
1980	468	615
1981	895	1,156
1982	889	1,160
1983	891	1,163
1984	894	1,176
1985	903	1,190
1986	924	1,219
1987	934	1,238
1988	968	1,277
1989	954	1,272
1990	947	1,267
1991	939	1,257
1992	895	1,201
1993	882	1,181
1994	860	1,152
1995	690	942
1996	681	921
1997	694	950
1998	684	938
1999	609	809
2000	603	814
2001	603	814
2002	595	788
2003	596	805
2004	567	3,492
2005	2,818	3,490

Fiscal Year	Total Personnel	Cost ($000)
2006	2,002	2,478
2007	1,856	914
2008	562	759
2009	550	739
2010	547	732
2011	548	735
2012	527	709
2013	526	702
2014	524	705
2015	525	706
2016[1]	529	711

[1] Estimate.

Source: Naval Center for Cost Analysis, Navy Visibility, and Management of Operating and Support Costs (VAMOSC) Management Information System.

Chapter II.D.1.b.(1)
Flight Pay (Crew Member)

Legislative Authority: 37 U.S.C. §301(a)(1) and (b).

Purpose: To provide an additional pay to help the uniformed services induce officers and enlisted personnel to enter upon and remain in flying duty and to compensate for the more than normally dangerous character of such duty.

Background: Crew member flight pay started out as an extra pay for officers only; it was subsequently extended to enlisted personnel; then, with the adoption of aviation career incentive pay for officers,[1] it was withdrawn from officers, thus being payable only to enlisted members; and now, under the amendment to the program for crew member flight pay effected by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(1)(A), 99 Stat. 583, 697 (1985), it is again payable to both officers and enlisted personnel. In its earliest incarnation, crew member flight pay was the original flight pay. All of the existing flight-pay programs are derivative from the progenitor of today's crew member flight pay.

Originally, the sole purpose of flight pay was to compensate personnel for the exceedingly hazardous nature of military flying duty. The first legislative authorization of a special pay for flying duty was incorporated in the Act of March 2, 1913 (Army Appropriation Act of 1914), ch. 93, Pub. L. No. 62-401, 37 Stat. 704, 705 (1913), which gave Army officers detailed to "aviation duty" as "actual flyers of heavier than air craft" an increase of 35 percent in their pay and allowances. The Act of March 4, 1913 (Navy Appropriation Act of 1914), ch. 148, Pub. L. No. 62-433, 37 Stat. 891, 892 (1913), extended the same extra pay to Navy and Marine Corps officers detailed by the Secretary of the Navy to "aviation duty" as "actual flyers of heavier-than-air craft."

The Act of July 18, 1914, ch. 186, Pub. L. No. 63-143, 38 Stat. 514 (1914), created an aviation section within the Army Signal Corps and established three classes of Army aviators: military aviators, junior military aviators, and aviation students. These classes were entitled to flight pay amounting to an additional 75, 50, and 25 percent, respectively, of their base and longevity pay. Act of July 18, 1914, ch. 186, *id*., §3, 38 Stat. 515–16. The act also gave Army enlisted personnel who were required to participate regularly and frequently in aerial flight, or who held the rating of aviation mechanic, a 50-percent increase in pay. [See Act of July 18, 1914, ch. 186, *id*., §3, 38 Stat. 515–16.] The Act of March 3, 1915 (Navy Appropriation Act of 1916), ch. 83, Pub. L. No. 63-271, 38 Stat. 928, 939 (1915), provided for Navy and Marine Corps officers and enlisted personnel to be detailed to duty involving actual flying in balloons, dirigibles, and "aeroplanes." Officers so detailed were entitled to an increase of 35 percent in pay and allowances while classified as student aviators and to 50 percent after becoming qualified as naval aviators; enlisted personnel so detailed received a 50-percent increase in pay and allowances.

The Act of June 4, 1920 (National Defense Act Amendments of 1920), ch. 227, Pub. L. No. 66-242, §13, 41 Stat. 759, 768–69 (1920), created the "Air Service" of the Army, redesignated as the "Air Corps" in 1926, and abolished the flight pay scale based on aviator classes. Under the Act of June 4, 1920, ch. 227, *id*., all Army officers and enlisted personnel were entitled to an increase of 50 percent in base and longevity pay while on duty requiring them to participate regularly and frequently in aerial flights.

The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §20, 42 Stat. 625, 632–33 (1922), provided that "all officers, warrant officers, and enlisted men of all branches of the Army, Navy, Marine Corps, and Coast Guard, when detailed to duty involving flying, shall receive the same increase of their pay ... as now authorized for the performance of like duties in the Army." The Joint Service Pay Readjustment Act of 1922, ch. 212, *id*., thus established uniform flight pay rates, applicable to all services, equal to 50 percent of base and longevity pay. In addition, the act required that the President issue regulations to set up uniform standards governing personnel entitlements to flight pay for all services. The

[1] See Chapter II.D.1.b.(3) hereof, "Aviation Career Incentive Pay (ACIP) and Aviation Career Continuation Pay (AOCP)," below.

resultant Executive Order 3705-B of July 1, 1922, instituted the first performance requirements for flight-pay entitlement. A member had to make 10 flights or be in the air at least four hours a month to qualify for flight pay under these regulations. Executive Order 4610 of March 10, 1927, modified the "10-flights" requirement by specifying that the 10 flights had to total at least three hours. These performance prerequisites for entitlement to flight pay, and the flight pay rate of 50 percent of pay, continued in basically the same form until the adoption of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949).

In 1948, at the request of the Secretary of Defense, the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission, undertook the first comprehensive study of the military pay system since 1908. In reviewing military compensation generally, and the flight-pay program in particular, the commission concluded that, although special pays such as flight pay had been designed in part to compensate for arduous and hazardous duties, their main purpose should be to fill a supply–demand function—to induce personnel to enter upon and remain in hazardous military occupations:

> The Commission, after reviewing previous studies, hearing presentations by the Services, and personally observing representative operational and training activities, is of the unanimous opinion that some additional pay should be awarded to individuals who, on a voluntary basis, carry out peacetime functions involving more than the ordinary military risk and danger....
>
> Close examination of the nature of hazardous duty and the expressed or implied reasons for accepting risks indicated that the incentive to engage and remain in hazardous occupations provided a more realistic and practical basis for determining the rates of special pay than the theory of recompense for shorter career expectancy. The recompense or replacement concept, although promoted for many years as the sole argument for hazard pay, was found wanting for several reasons.[2]

Until crew member flight pay was replaced by aviation career incentive pay for officers, officer rates, except for pay grade 0-1 with less than two years of service, were uniformly higher than enlisted rates. The Hook Commission's rationale favoring a higher rate of pay for officers than for enlisted personnel was that:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.
>
> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.
>
> (3) Officers are usually given greater special responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.
>
> (4) With respect to flying in particular, death rates for enlisted personnel have consistently been lower than those for officers.[3]

Under the Hook Commission recommendations, crew member flight pay was paired with submarine duty pay, and the rates for these two pays ranged from $30 monthly for pay grade E-1, through $75 for pay

[2] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 24.
[3] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay," December 1948, 27.

grade E-7, and $100 for pay grade O-1, up to $210 for pay grade O-6.[4] With respect to the special treatment accorded flight and submarine duty pays as compared with other types of incentive pay, the commission noted:

> A separate scale was developed for flying and submarine duty, compensable today at 50 percent of pay. Because of the demonstrated greater actual or potential danger and the supreme importance of these services, the inducement must be greater. The Commission's proposals maintain approximately the same dollar differential for these duties as now exists except in the general officer ranks. This differential, plus the proposed basic compensation, should be adequate to attract and keep men in these pursuits at the grade and age at which, in the Commission's opinion, based on present practice, they are most effective.[5]

The reasoning and recommendations of the Hook Commission led to the introduction and enactment of the provisions for hazardous duty incentive pay in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949).[6] During debate in the House of Representatives, Representative Johnson of California, a member of the Armed Services Committee, spelled out Congress's desire to shift the pay from an exclusively hazard-based purpose to a primarily incentive-based purpose, in his statement opposing a (subsequently defeated) amendment that would have reduced crew member flight pay rates and eliminated grade differentials:

> Mr. Chairman, this amendment would entirely destroy the whole structure of flying pay. Yesterday I took considerable time to explain to you that there are great hazards in military flying in time of peace. This is far more important in time of peace than it is in time of war, as in peacetime we must train our pilots who will fight for us in war.... In order to offer the incentive that is necessary to keep these boys flying, experience has shown you must give them incentive pay. That is what this is, incentive pay. We are not paying for a man's life. You cannot pay for a man's life, but you can pay for the financial loss suffered by a man's family in the loss of his life, and all the courts pay less for those with small income, because all that is paid for is the pecuniary loss caused by the death.[77]

The rates of crew member flight pay established by the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), were:[8]

Pay Grade	Flight Pay
O-8	$150.00
O-7	150.00
O-6	210.00

[4] The Hook Commission recommended that officers in pay grades O-7 and O-8 receive $100 per month on account of flight duty. See *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, Table XI, 27.

[5] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 26.

[6] For a short discussion of the treatment accorded hazardous duty incentive pays under the Career Compensation Act, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), see H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, and S. Rep. No. 81-733 (Committee on Armed Services), at 18, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[7] 95 Cong. Rec. 7773 (1949) (statement of Representative Johnson).

[8] After enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), the hazardous duty incentive pay provisions thereof, including crew member flight pay, were in the main classified to 37 U.S.C. §235. See 37 U.S.C. §235(a)(1) and (b) (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the hazardous duty pay provisions, including the crew member flight pay provisions here in issue, were codified at 37 U.S.C. §301.

Pay Grade	Flight Pay
O-5	180.00
O-4	150.00
O-3	120.00
O-2	110.00
O-1	100.00
W-4	100.00
W-3	100.00
W-2	100.00
W-1	100.00
E-7	75.00
E-6	67.50
E-5	60.00
E-4	52.50
E-3	45.00
E-2	37.50
E-1	30.00

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), is the basic source for existing crew member flight pay authority. It was, however, amended by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(5), 69 Stat. 18, 20–21 (1955), restructuring and increasing pay rates for qualifying duties.[9] In urging an increase, Department of Defense witnesses again emphasized the incentive-based purpose of the pay during congressional hearings:

> So long as these services must be staffed by volunteers the incentives offered must be enough to attract and retain the numbers required to maintain peak performance capabilities.[10]
>
> * * *
>
> My purpose here todays [sic] is to point out to you the impact which this legislation will have upon the successful solution of the most important of our personnel problems, the procurement and retention of qualified personnel.
>
> * * *
>
> For several years the flying services have experienced difficulty in procuring an adequate number of qualified applicants for flying training.
>
> * * *
>
> More serious than procurement has been the retention rate of newly trained pilots and observers.... It will be noted that the greatest increases in hazard incentive pay are recommended for first lieutenants, captains, and majors—our younger officers who are leaving service in the greatest numbers.[11]

In addition to increasing the rates of crew member flight pay, the Career Incentive Act of 1955, ch. 20, *id*., introduced longevity step differentials.

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[9] As shown in the table below, flying duty pay rates, like basic pay, were made to depend not only on pay grade but also on years of service.

[10] *Career Incentive Act of 1955: Hearings on H.R. 2607 before Subcommittee No. 2 of the House Armed Services Committee*, 84th Cong., 1st sess., 478 (1955) (testimony of Asst. Sec. Carter Burgess, Department of Defense).

[11] *Career Incentive Act of 1955: Hearings on H.R. 2607 before Subcommittee No. 2 of the House Armed Services Committee*, 84th Cong., 1st sess., 519–20 (1955) (testimony of General Morris F. Lee, USAF).

The rates of crew member flight pay under the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(5),69 Stat. 18, 20–21 (1955), were as follows:

Pay Grade	**Creditable Years of Service**						
	Under 2	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**
O-10	$165	$165	$165	$165	$165	$165	$165
O-9	165	165	165	165	165	165	165
O-8	155	155	165	165	165	165	165
O-7	150	150	160	160	160	160	160
O-6	200	200	215	215	215	215	215
O-5	190	190	205	205	205	205	205
O-4	170	170	185	185	185	195	210
O-3	145	145	155	165	180	185	190
O-2	115	125	150	150	160	165	170
O-1	100	105	135	135	140	145	155
W-4	115	115	115	115	120	125	135
W-3	110	115	115	115	120	120	125
W-2	105	110	110	110	115	120	125
W-1	100	105	105	105	110	120	125
E-9	105	105	105	105	105	105	105
E-8	105	105	105	105	105	105	105
E-7	80	85	85	85	90	95	100
E-6	70	75	75	80	85	90	95
E-5	60	70	70	80	80	85	90
E-4	55	65	65	70	75	80	80
E-3	55	60	60	60	60	60	60
E-2	50	60	60	60	60	60	60
E-1	50	55	55	55	55	55	55

E-1 less than 4 months: 50
Aviation cadets: 50

Pay Grade	Creditable Years of Service						
	Over 12	**Over 14**	**Over 16**	**Over 18**	**Over 22**	**Over 26**	**Over 30**
O-10	$165	$165	$165	$165	$165	$165	$165
O-9	165	165	165	165	165	165	165
O-8	165	165	165	165	165	165	165
O-7	160	160	160	160	160	160	160
O-6	215	215	220	245	245	245	245
O-5	210	225	230	245	245	245	245
O-4	215	220	230	240	240	240	240
O-3	200	205	205	205	205	205	205
O-2	180	185	185	185	185	185	185
O-1	160	170	170	170	170	170	170
W-4	145	155	160	165	165	165	165
W-3	135	140	140	140	140	140	140
W-2	130	135	135	135	135	135	135
W-1	130	130	130	130	130	130	130
E-9	105	105	105	105	105	105	105
E-8	105	105	105	105	105	105	105
E-7	105	105	105	105	105	105	105
E-6	95	100	100	100	100	100	100
E-5	95	95	95	95	95	95	95
E-4	80	80	80	80	80	80	80
E-3	60	60	60	60	60	60	60
E-2	60	60	60	60	60	60	60
E-1	55	55	55	55	55	55	55

In 1974, in accordance with the report and recommendations of the Second Quadrennial Review of Military Compensation (QRMC),[12] Congress, through the Aviation Career Incentive Act of 1974, Pub. L. No. 93-294, 88 Stat. 177 (1974), abolished crew member flight pay for officers [see *id*., §2(1), 88 Stat. 177], and replaced it with aviation career incentive pay [see *id*., §2(3), 88 Stat. 177–79, presently codified at 37 U.S.C. §301a]. [See Chapter II.D.1.b.(3), "Aviation Career Incentive Pay and Aviation Career Continuation Pay," below.] Officers were excluded from the provisions for crew member flight pay in 37 U.S.C. §301 because it was generally believed that, since they would either be entitled to the then-new aviation career incentive pay or to non-crew member flight pay, there was no need for crew member flight pay for officers involved in military aviation. [See Chapter II.D.1.b.(3), "Aviation Career Incentive Pay and Aviation Career Continuation Pay," and Chapter II.D.1.b.(2), "Flight Pay (Non-Crew Member)," hereof, below).]

The rates of flight pay for enlisted crew members that had been established under the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(5), 69 Stat. 18, 20–21 (1955), varying from $50 per month for members in pay grades E-1 and E-2 with less than two years of service to $105 per month for all members in pay grades E-8 and E-9 and members in pay grade E-7 with more than 12 years of service, remained in effect until September 1, 1980. At that time, crew member flight pay rates for enlisted members of the uniformed services were increased by 25 percent across the board by the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §2(a), 94 Stat. 1123 (1980). As explained in the House report, Congress was in "unanimous agreement with the need for and desirability of" the proposed

[12] *Report of the 1971 Quadrennial Review of Military Compensation*, Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs, Department of Defense, 1971.

rate increases.[13] Under the 1980 Amendments, Pub. L. No. 96-343, *id*., crew member flight pay rates varied from a low of $63 per month for members in pay grades E-1 and E-2 with less than two years of service up to $131 per month for all members in pay grades E-8 and E-9 and members in pay grade E-7 with more than 10 years of service.

Effective October 1, 1981, Congress, through the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(b), 95 Stat. 989, 993 (1981), further increased minimum crew member flight pay rates to $83 per month, thereby increasing such pay for members in pay grades E-1 through E-3, E-4 with less than four years of service, and E-5 with less than two years of service, while at the same time substantially compressing the entire flight-pay structure for crew members. The reason for the increase, in simplest terms, was to keep crew member flight pay on a parity with other hazardous duty incentive pays. The Uniformed Services Pay Act of 1981, *id*., was specially directed at increasing hazardous duty incentive pay rates for personnel involved in non-crew member flight operations, parachute jumping, explosives demolition, acceleration or deceleration or thermal stress experiments, work in high- or low-pressure chambers, and carrier flight-deck operations, since, as noted in the Senate report, hazardous duty pay rates for such work had "not been adjusted in more than 20 years, and this increase [a 50-percent increase to $83 per month] is needed to enhance the incentive value of this pay."[14] With this increase, however, hazardous duty incentive pay rates for the targeted types of duty would, in some cases, i.e., for certain personnel in pay grades E-4 and E-5 and for all personnel in pay grades E-1 through E-3, have exceeded the hazardous duty incentive pay authorized for crew member flight operations, and since Congress felt no such differential should exist,[15] minimum rates of incentive pay for enlisted crew member flight duty were increased to $83 per month.

The rates of crew member flight pay as amended by the Uniformed Service Pay Act of 1981, Pub. L. No. 97-60, §111(b), 95 Stat. 989, 993 (1981), were:

Pay Grade	**Years of Service Computed Under Section 205**						
	2 or Less	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	100	106	106	106	113	119	131
E-6	88	94	94	100	106	113	119
E-5	83	88	88	100	100	106	113
E-4	83	83	83	88	94	100	100
E-3	83	83	83	83	83	83	83
E-2	83	83	83	83	83	83	83
E-1	83	83	83	83	83	83	83

E-1 less than 4 months: 83
Aviation cadets: 83

Pay Grade	**Years of Service Computed Under Section 205**						
	Over 12	**Over 14**	**Over 16**	**Over 18**	**Over 22**	**Over 26**	**Over 30**
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	131	131	131	131	131	131	131
E-6	119	125	125	125	125	125	125

[13] H.R. Rep. No. 96-1233 (Committee of Conference), at 15, accompanying H.R. 5168, 96th Cong., 2d sess. (1980).
[14] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[15] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).

Pay Grade	Years of Service Computed Under Section 205						
E-5	119	119	119	119	119	119	119
E-4	100	100	100	100	100	100	100
E-3	83	83	83	83	83	83	83
E-2	83	83	83	83	83	83	83
E-1	83	83	83	83	83	83	83

In 1985 two substantive changes were made to the provisions for crew member flight pay in 37 U.S.C. §301 by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(1)(A) and (a)(2), 99 Stat. 583, 647–48 (1985). First, pay rates were increased, and years-of-service differentials were eliminated for all enlisted pay grades. Second, crew member flight pay was again authorized for officers, thus effectively reversing the policy decision underlying the rescission of crew member flight pay authority for officers in the Aviation Career Incentive Act of 1974, Pub. L. No. 93-294, 88 Stat. 177 (1974), discussed above. Crew member flight pay rates, which became effective October 1, 1985,[16] are set out below:[17]

Pay Grade	Monthly Rate
O-10	$110
O-9	110
O-8	110
O-7	110
O-6	250
O-5	250
O-4	225
O-3	175
O-2	150
O-1	125
W-5	250
W-4	250
W-3	175
W-2	150
W-1	125
E-9	200
E-8	200
E-7	200
E-6	175
E-5	150
E-4	125
E-3	110

[16] Section 635(b) of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(b), 99 Stat. 583, 648 (1985).

[17] The Warrant Officer Management Act, enacted as Title XI of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, 105 Stat. 1290, 1491–1506 (1991), established the new warrant officer pay grade, W-5, National Defense Authorization Act for Fiscal Years 1992 and 1993, *id*., §1111(a), 105 Stat. 1491, and authorized members serving in that pay grade to receive crew member flight pay at the rate of $250 per month. See National Defense Authorization Act for Fiscal Years 1992 and 1993, *id*., §1111(d)(1), 105 Stat. 1492. For the reasons underlying the establishment of the new pay grade, see Chapter II.B.1 hereof, above, "Basic Pay."

Pay Grade	Monthly Rate
E-2	110
E-1	110

The legislative history of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., does not per se indicate the reason for increasing crew member flight pay rates for enlisted personnel or for extending authorization for crew member flight pay to officers,[18] primarily because no report was ever submitted on the Senate bill, S. 1160, in which the two changes in issue were proposed.[19] In fact, however, both changes closely parallel recommendations advanced by the Fifth Quadrennial Review of Military Compensation in 1984.[20] In support of its recommendation to "[r]aise and compress the enlisted Crewmember Flight Pay rates,"[21] the Fifth Quadrennial Review concluded:

> The Service manning and reenlistment portion of [the Fifth Quadrennial Review's] analysis has shown that, while reenlistment rates for air crewmembers are generally higher

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[18] See, e.g., H. Rep. No. 99-235 (Committee of Conference), at 431, and S. Rep. No. 99-118 (Committee of Conference), at 431, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[19] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

> ... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.
>
> When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....
>
> Most of the Senate Report 99-41 continues to be applicable to this bill....

131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... [T]he Committee recommended increases or enhancements to a number of special and incentive pays....
>
> The special and incentive pays ... involved in these recommendations include:
>
> g. Hazardous duty pays.
>
> Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither S. Rep. No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the hazardous duty incentive pay program in general, or to the crew member flight pay program in particular, that were contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985). See Section 148 of S. 2723, 98th Cong., 2d sess. (1984).

[20] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Fifth Quadrennial Review of Military Compensation was convened in 1982, pursuant to presidential directive, and its report and recommendations were submitted to Congress in early 1984.

[21] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 133. Also see *id*., 10, and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-5.

> than those service-wide, grade imbalances and, in a few specific skills, overall manning shortfalls continue to exist....
>
> ... [T]he rates [of crew member flight pay] range from $83 to $131 monthly, a difference of $48 stratified by nine pay grades and 14 longevity steps, resulting in an average incremental increase of $6. The incentive value of such an amount is questionable....
>
> Two actions can be taken to improve the incentive value of this pay: significantly increase the range of the allowable rates, or compress the pay table structure and increase the rates to a lesser degree. The first alternative is believed to be too costly and does not directly address the specific manning problems, that is, the grade imbalances. The latter, however, provides for greater incremental changes at lower program costs, since fewer steps are required. If the rates are differentiated by grade only, the incremental increase will appear greater than the actual dollar outlay by taking advantage of the pay raises coincident to promotions. The scale cannot be compressed by longevity without losing this advantage.[22]

In support of its recommendation to "[r]eestablish ... Officer Crewmember Flight Pay,"[23] the Fifth Quadrennial Review noted:

> Most officer air crewmembers are either aeronautically designated/rated and, therefore, covered by ACIP[aviation career incentive pay, see Chapter II.D.1.b.(3) hereof], or are in the Air Force's Air Weapons Control Officer career field which was recently extended its own incentive pay [see Chapter II.D.1.b.(4) hereof]....
>
> However, there are currently [November 1983] about 750 officers who by definition are crewmembers, but, due to the abolishment of officer crewmember pay authority in 1974, are being carried as non-crewmembers for pay purposes. Prior to the enactment of ACIP, rated and non-rated officer crewmembers received the same flight pay (up to $245 per month). Officer Non-crewmember Flight Pay has been held at a flat rate of $110 since 1955; consequently it is not unusual for an enlisted member with equal or less experience to draw a higher incentive pay than an officer member of the same crew.... This situation is contrary to one of the basic principles of an incentive pay, that is, to be effective it must bear some relationship to basic pay....
>
> Officer non-rated crewmember positions are distributed across a wide range of skills; ... All but [one of the skill fields identified] are manned at less than 100%.... Further, the grade imbalances identified in the analysis of enlisted crewmembers [see quoted material accompanying footnote 17, above] are repeated for the officer corps. Since these officers can expect viable career opportunities on the ground and must be volunteers for flight duty, a need for a greater incentive than that currently being provided is indicated.[24]

Whether because of the recommendations of the Fifth Quadrennial Review of Military Compensation or for some other reasons, Congress, in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(1)(A) and (a)(2), 99 Stat. 583, 647–48 (1985), did increase crew member flight

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[22] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 125–26. Also see *id*., 5.

[23] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 133. Also see *id*., 6; and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-4.

[24] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 127–28. Also see *id*., 5; and *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-4.

pay rates for enlisted personnel, compressed the crew member flight pay table by eliminating years-of-service, or "longevity," differentials, and restored officer entitlements to crew member flight pay. The rates of crew member flight pay adopted by Congress in the 1986 Authorization Act are the same as those recommended by the Fifth Quadrennial Review of Military Compensation.[25]

Reserve forces personnel[26] entitled to compensation for inactive-duty training are entitled to crew member flight pay when they perform qualifying duties under competent orders, provided Congress has appropriated sufficient funds for that purpose.[27] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying crew member flight duties while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[28] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing one of the hazardous duties set out in 37 U.S.C. §301(a), including crew member flight duties, also entitled to 1/30th of the monthly hazardous duty incentive pay that would be payable to a member of the active-duty force who was performing such duties. Under regulations prescribed by the relevant Secretary, a member of a reserve force who performs crew member flight duties while engaged in inactive-duty training is entitled to crew member flight pay under 37 U.S.C. §301(f).[29]

Flight pay for reserve forces personnel generally, and crew member flight pay in particular, derives from the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926). Section 6 of the Air Corps Act amended Section 20 of the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §20, 42 Stat. 625, 632 (1922), to give "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled. The extension of this special increase in compensation to members of the National Guard came about as a result of a floor amendment to the House bill, H.R. 10827,

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[25] Compare the rates of crew member flight pay adopted at Section 635(a)(2) of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(2), 99 Stat. 583, 648 (1985) (codified at 37 U.S.C. §301(b)), with the rates proposed by the Fifth Quadrennial Review at pages 127 (Table 8, Enlisted Personnel) and 129 (Table 9, Officers) of *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983.

[26] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[27] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[28] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[29] See Executive Order 13294.

69th Cong., 1st sess. (1926), which established the Army Air Corps. In offering the amendment, Representative John Philip Hill of Alabama did not offer any particular justification for extending this pay to members of the National Guard. Rather, he simply noted that the bill had "the endorsement of the War Department, the Chief of the Air Service [the predecessor of the Air Corps] ... and the committee [on Military Affairs]."[30]

Flight pay for inactive-duty training was extended to "officers and enlisted men of the Naval Reserve ... performing aerial flights in the capacity of pilots ... as a part of their training" by the Naval Reserve Act of 1938, ch. 290, Pub. L. No. 75-732, §313, 52 Stat. 1175, 1184 (1938). Members of the Marine Corps Reserve were covered by a separate provision that gave such members the same benefits as conferred on members of the Naval Reserve [see Naval Reserve Act of 1938, ch. 290, *id*., §2, 52 Stat. 1175]. Insofar as personnel and compensation matters were concerned, the Naval Reserve Act had been patterned after the Army Air Corps Act, and as above noted, the Army Air Corps Act had extended flight pay entitlement to "officers, warrant officers, and enlisted men of the National Guard." The Naval Reserve Act was, however, more restrictive than the Army Air Corps Act had been: an amendment to the bill provided that the increase in compensation would apply to "only those actually serving as pilots of aircraft,"[31] whereas the Army Air Corps Act had extended the special pay to any member of the National Guard "participat[ing] regularly and frequently in aerial flights," independently of whether the member is a pilot.

The Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), substantially reorganized the provisions of preceding law relating to inactive-duty training pay for reserve forces personnel. Section 3 of the 1948 Act, *id*., 62 Stat. 88–89, amended Section 14 of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14, 56 Stat. 359, 367 (1942), to give "officers, warrant officers, and enlisted personnel" of all the reserve forces entitlement to special pay for "perform[ing] aerial flights," among other things. As stated in the House report:

> The purpose of the bill is to standardize inactive training pay for all Reserve components of the various services and also to grant such inactive duty training pay to Army Reservists.
>
> The major departure in the legislation is the giving of this pay to the Army Reserves, including enlisted men. Such pay has been granted by the Congress heretofore to members of the National Guard and the Naval and Marine Corps Reserves....
>
> The committee considers the need for this pay to be apparent, even though it is unfortunate that the country must resort to it. The Army and Navy must maintain active Reserve components, or else, in time of war emergency, the Nation will have to depend exclusively upon Regular services for its defense. They are patently incapable of doing such a job alone. So, in order to vitalize the National Guard and Reserve components, to get more people to participate so that they will fit promptly and effectively into the mobilization-day plans of the Armed Forces, inactive duty pay is to be given each participant at the rate of one-thirtieth of 1 month's base and longevity pay for each training period.... Such specialists as pilots, radar technicians, medical people, and so forth, will also be able to earn inactive duty training pay when the standards specified by the Secretaries [of the various departments] are met.[32] [33]

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[30] 67 Cong. Rec. 8765 (1926) (statement of Representative Hill).

[31] H.R. Rep. No. 2763 (Committee of Conference), at 3, accompanying H.R. 10594, 75th Cong., 3d sess. (1938).

[32] H.R. Rep. No. 80-971 (Committee on Armed Services), at 1–2, accompanying H.R. 3227, 80th Cong., 1st sess. (1947). See S. Rep. No. 80-625 (Committee on Armed Services), at 1, accompanying S. 1174, 80th Cong., 1st sess. (1947).

[33] Section 14(c) of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14(c), 56 Stat. 359, 367 (1942), as amended by Section 3 of the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat 87, 88–89 (1948), extended special pay to "personnel required to perform aerial flights, parachute jumping, glider flights, or submarine duty" in connection with inactive-duty training. As stated in S. Rep. No. 80-625 (Committee on Armed Services), at 2,

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), restated the provisions of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, 56 Stat. 359 (1942), as amended by the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), insofar as the entitlement of reserve forces personnel to special pay for the performance of hazardous duties was concerned. Section 501 of the Career Compensation Act of 1949, ch. 681, *id*., §501, 63 Stat. 825–27, dealt generally with the entitlement of reserve forces personnel to compensation for inactive-duty training. Subsection (d) of Section 501, 63 Stat. 826, generalized the hazardous duty incentive pay entitlements of reserve forces personnel performing inactive-duty training by providing that hazardous duty incentive pay was available to such personnel whenever they were required by competent orders to perform any of the hazardous duties, set out at Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 810, for which active-duty personnel were entitled to hazardous duty incentive pay. The duties set out in Section 204(a) as qualifying for such pay included crew member and non-crew member flight duties, submarine duties, glider duties, parachute jumping duties, leprosy duties, explosives demolition duties, duty at a submarine escape training tank, and duty with certain diving units. See Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 809–10.[34] No special reason was given for this reorganization of the provisions of prior law dealing with inactive-duty training pays, including inactive-duty training incentive pays for hazardous duties. The extension of incentive pay for hazardous duty to new classes of reserve forces personnel—e.g., to reserve forces personnel in an inactive-duty training status performing leprosy duties, explosives demolition duties, submarine escape training tank duties, etc.—appears to have derived from the extension of such pays to active-duty personnel, and not from any special concern about reserve forces personnel and whether they should be entitled to incentive pay for performance of various hazardous duties.[35] [See, e.g., chapters of this book dealing with explosives demolition duty pay, parachute duty pay, etc.]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §647, 99 Stat. 583, 655 (1985), amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hour resources.

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accompanying S. 1174, 80th Cong., 1st sess. (1947): "Increases in pay authorized by law for flying, parachute jumping, submarine duty, *etc.*, will be paid."

[34] The inactive-duty training pay provisions contained in section 501 of the Career Compensation Act of 1949, ch. 681, *id*., §501, 63 Stat. 825–27, were classified to 37 U.S.C. §301, whereas the hazardous duty incentive pay provisions set out in Section 204 of the Career Compensation Act of 1949, ch. 681, *id*., §204, 63 Stat. 809–10, were classified to 37 U.S.C. §235. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions relating to hazardous duty incentive pay entitlements of reserve forces personnel were codified at 37 U.S.C. §301, together with the hazardous duty incentive pay provisions relating to active-duty personnel. The current structure of hazardous duty incentive pay entitlements— including hazardous duty incentive pay for crew member flight duty—for reserve forces personnel performing inactive-duty training thus derives from the organization imposed on Title 37 by the Act of September 7, 1962, Pub. L. No. 87-649, i*d*.

[35] The Hook Commission, whose report led to the adoption of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), did not concern itself with reserve forces compensation in any way. See, e.g., "Terms of Reference," the charter given to the Hook Commission by the then Secretary of Defense, James Forrestal, in *Career Compensation for the Uniformed Forces*, A Report and Recommendations for the Secretary of Defense by the Advisory Commission on Service Pay," December 1948, vii–viii.

> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP for flying be permitted to credit active duty or inactive duty training flight time to fulfill active or inactive duty flight time requirements.[36]

While the concern that led to the amendment in issue was the appropriate use and apportionment of flying time, the amendment to 37 U.S.C. §301(f) was stated in broader terms so that it applies to any of the hazardous duties set out in 37 U.S.C. §301(a), and not just flight pay. Thus, for any month in which a member of a reserve force is involved both in active duty and inactive-duty training for which the member is entitled to hazardous duty incentive pay under 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on the member's combined entitlement for both active duty and inactive-duty training.

The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1786 (1997), increased the hazardous duty pay of certain officers and enlisted personnel who were aerial flight crew members. Pursuant to that legislation, officers in grades 0-7 through 0-10 and enlisted personnel at grades E-1 through E-3 received $150 per month instead of the previous rate of $110 per month. Officers at grade 0-1, enlisted personnel at E-4, and warrant officers at grade W-1 received an increase to $150 per month over their previous $125 per month. The National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 2040 (1998), raised the monthly rate of hazardous duty pay for aerial flight crew members in grades E-4 through E-9 by varying amounts.

Until 2003 the conditions of entitlement to crew member flight pay for both active-duty and reserve forces personnel are set out in Sections 103 and 104 of Executive Order 11157, as amended,[37] in various supplementary regulations adopted by the service Secretaries pursuant to Section 113 of Executive Order 11157, and the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R. Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to demolition pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments.

Current rates of pay authorized: Crew member flight pay rates vary by pay grade, as follows:

Hazardous Duty (Crew Member Non-AWAC)[38]					
Pay Grade	**Amount**	**Pay Grade**	**Amount**	**Pay Grade**	**Amount**
O-10	150	O-2	150	E-8	240
O-9	150	O-1	150	E-7	240
O-8	150	W-5	250	E-6	215
O-7	150	W-4	250	E-5	190
O-6	250	W-3	175	E-4	165
O-5	250	W-2	150	E-3	150
O-4	225	W-1	150	E-2	150
O-3	175	E-9	240	E-1	150

[36] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).
[37] Reproduced, as amended, at 37 U.S.C. §301 note.
[38] U.S. Department of Defense, Defense Finance and Accounting Service, "Military Pay Charts—1949 to 2016: Jan. 1, 2016," accessed October 4, 2016. http://www.dfas.mil/militarymembers/payentitlements/military-pay-charts.html

Cost: For the cost of flight pay for crew members from 1972 to 2016, see table II-10, below.

Table II-10. Flight Pay (Crew Member), 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	150,277	$314,466	111,927	$274,445	38,350	$40,021
1973	135,747	264,461	104,264	231,713	31,483	32,748
1974	119,326	230,666	93,045	203,261	26,281	27,405
1975	25,327	26,218	---	---	25,327	26,218
1976	23,427	23,970	---	---	23,427	23,970
1977	22,074	22,457	---	---	22,074	22,457
1978	22,475	22,531	---	---	22,475	22,531
1979	22,821	22,621	---	---	22,821	22,621
1980	22,930	23,428	---	---	22,930	23,428
1981	23,385	29,322	---	---	23,385	29,322
1982	23,986	30,562	---	---	22,769	15,238
1983	23,467	29,944	---	---	23,467	29,944
1984	23,190	29,639	---	---	23,190	29,639
1985	23,259	29,693	---	---	23,259	29,693
1986	24,353	45,981	824	1,885	23,529	44,096
1987	24,973	47,089	1,097	2,400	23,876	44,689
1988	25,596	47,902	1,280	2,681	24,316	45,221
1989	26,331	49,077	1,256	2,623	25,075	46,454
1990	27,354	50,758	1,182	2,631	26,172	48,127
1991	30,404	57,170	1,389	3,088	29,015	54,082
1992	24,526	45,822	1,088	2,610	23,438	43,212
1993	22,642	42,496	920	2,196	21,722	40,300
1994	21,280	39,952	980	2,322	20,300	37,630
1995	19,653	36,929	896	2,079	18,757	34,850
1996	18,608	34,460	113	257	18,495	34,203
1997	18,053	33,463	108	246	17,945	33,217
1998	12,669	24,854	113	257	12,556	24,597
1999	12,690	33,102	123	280	12,567	32,822
2000	9,666	24,133	78	175	9,588	23,958
2001	9,765	23,429	81	182	9,684	23,247
2002	10,149	25,053	74	165	10,075	24,888
2003	11,370	29,307	78	178	11,292	29,129
2004	21,289	52,656	73	168	21,216	52,488
2005	15,467	35,182	59	146	15,408	35,036
2006	7,399	16,787	537	1,129	6,862	15,658
2007	7,763	17,540	683	1,486	7,080	16,054
2008	7,112	16,267	569	1,274	6,543	14,993
2009	---	---	---	---	7,852	17,908
2010	8,544	19,503	726	1,656	7,818	17,847
2011	8,953	20,830	1,292	3,342	7,661	17,488

2012	9,061	20,843	587	1,429	8,474	19,414
2013	8,945	20,542	499	1,185	8,446	19,357
2014	7,045	16,240	482	1,126	6,563	15,114
2015	6,730	15,501	623	1,463	6,107	14,038
2016[1]	6,555	15,059	758	1,768	5,797	13,291

--- No data available.

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.D.1.b.(2)
Flight Pay (Non-Crew Member)

Legislative Authority: 37 U.S.C. §301(a)(2) and (c)(1).

Purpose: To provide additional pay to help the uniformed services induce personnel to enter into and remain in flying duty assignments, and to compensate for the more than normally dangerous character of such duty.

Background: Originally, the sole purpose of flight pay was to compensate personnel for the exceedingly hazardous nature of military flying duty. [See Chapter II.D.1.b.(1), "Flight Pay (Crew Member)," above.] From its birth in 1913 until 1934, the law made no distinction in the flight-pay entitlements of non-crew members and crew members. Such a distinction grew out of a provision of the Independent Offices Appropriations Act, 1934, ch. 101, Pub. L. No. 73-78, §10, 48 Stat. 283, 307 (1933), one of a series of depression-era measures influenced by a sense-of-Congress resolution that "the affairs of the executive branch be conducted with the utmost economy," that authorized the President to "... distinguish between degrees of hazard in various types of flying duty and make different rates of extra pay applicable thereto."

When the President failed to take action consistent with the sense-of-Congress resolution and the President's discretionary authority under the Independent Offices Appropriation Act, 1934, ch. 101, *id*., Congress adopted certain limitations on flight-pay entitlements in the Act of March 15, 1934 (Navy Appropriation Act of 1935), ch. 69, Pub. L. No. 73-122, 48 Stat. 403, 411 (1934), and the Act of April 26, 1934 (Army Appropriation Act of 1935), ch. 165, Pub. L. No. 73-176, 48 Stat. 614, 618 (1934). Under the subject acts, a $120 monthly ceiling was placed on flight pay for "non-flying" officers—officers without an aeronautical rating or designation—in the grades of lieutenant commander/major and above. The ceiling was extended to cover all non-flying officers, regardless of grade, in the appropriation acts for the Army and Navy for fiscal year 1936. The maximum rate was reduced from $120 to $60 for flight surgeons in fiscal year 1940 and for all non-flying officers in fiscal year 1941. The rate reduction stemmed from the conclusion of the House Appropriations Committee that flight pay for non-flying officers was "justifiable only upon the ground of increased insurance premiums" and that "the hazard is certainly not as great as in the case of flying personnel who are in the air vastly more often and generally under more hazardous conditions."[1]

Though the definition of a "flying officer" was broadened by the Act of July 1, 1943, ch. 185, Pub. L. No. 78-108, 57 Stat. 347, 349 (1943), to include flight surgeons and personnel undergoing flying training, the $60 ceiling on flight pay for non-flying officers remained in effect until July 1, 1950, albeit through a quirk in the law from October 1, 1949, to July 1, 1950. The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(a)(1) and (3), 63 Stat. 802, 809–10 (1949), established specific flight-pay rates for aviation crew and non-crew members effective October 1, 1949,[2] and repealed "all Acts or parts of Acts inconsistent with the provisions of this Act."[3] However, the fiscal year 1950 Appropriation Act carried the $60 ceiling, and its enactment was delayed until a few days after adoption of the Career Compensation Act of 1949, *id*. The ceiling was thus not affected by the repeal—the new, higher rates for non-flying officers themselves being effectively repealed by the subsequently enacted appropriation act—and continued to apply throughout fiscal year 1950.

In 1948, at the request of the Secretary of Defense, the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission, undertook the first comprehensive study of the military pay system since 1908. The commission concluded that, although special pays such as flight pay were designed in part to compensate for arduous and hazardous duties, their main purpose should be to fill a supply–demand function—namely, to induce personnel to enter into and remain in hazardous military occupations. The commission's rationale underlying this conclusion was that:

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[1] H.R. Rep. No. 1912 (Committee on Appropriations), at 13, accompanying H.R. 9209, 76th Cong., 3d sess. (1940).
[2] Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §533(a), 63 Stat. 802, 841 (1949).
[3] Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §531(a), 63 Stat. 802, 838 (1949).

> The Commission, after reviewing previous studies, hearing presentations by the Services, and personally observing representative operational and training activities, is of the unanimous opinion that some additional pay should be awarded to individuals who, on a voluntary basis, carry out peacetime functions involving more than the ordinary military risk and danger....
>
> Close examination of the nature of hazardous duty and the expressed or implied reasons for accepting risks indicated that the incentive to engage and remain in hazardous occupations provided a more realistic and practical basis for determining the rates of special pay than the theory of recompense for shorter career expectancy. The recompense or replacement concept, although promoted for many years as the sole argument for hazard pay, was found wanting for several reasons.[4]

The Hook Commission's rationale for higher non-crew member flight pay rates for officers than for enlisted personnel was that:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.
>
> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.
>
> (3) Officers are usually given greater special responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.
>
> (4) With respect to flying in particular, death rates for enlisted personnel have consistently been lower than those for officers.[5]

The reasoning and recommendations of the Hook Commission led to the introduction and enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), which established non-crew member flight pay rates of $100 a month for officers and $50 a month for enlisted personnel.[6] [See Section 204(a)(3) and (c) of the Act, *id*., 63 Stat. 810.][7] These rates were raised by 10 percent to $110 and $55 for officers and enlisted personnel, respectively, by the Career Incentive Act of 1955, ch 20, Pub. L. No. 84-20, §2(6), 69 Stat. 18, 21 (1955), and remained at those levels until October 1, 1981, when the rates for enlisted personnel were increased by 50 percent to $83 per month under the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(c), 95 Stat. 989, 993 (1981). As explained in the Senate report, the rates of non-crew member

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[4] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 24.

[5] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[6] For a short discussion of the treatment accorded hazardous duty incentive pays under the Career Compensation Act of 1949, ch. 681, *id*., see H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, and S. Rep. No. 81-733 (Committee on Armed Services), at 18, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[7] After enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), the hazardous duty incentive pay provisions thereof, including non-crew member flight pay, were in the main classified to 37 U.S.C. §235, with the non-crew member flight pay provisions being found at 37 U.S.C. §235(a)(3) and (c). See 37 U.S.C. §235(a)(3) and (c) (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Publ. L. No. 87-649, 76 Stat. 451 (1962), the hazardous duty pay provisions, including the non-crew member flight pay provisions here in issue, were codified at 37 U.S.C. §301.

flight pay for enlisted personnel had "not been adjusted in more than 20 years, and this increase is needed to enhance the incentive value of this pay."[8]

Non-crew member flight-pay rates for enlisted personnel were further increased to $110 per month in 1985 by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 99 Stat. 583, 648 (1985). This increase was effected by an amendment to 37 U.S.C. §301(c)(1) that eliminated the distinction between officers and enlisted personnel for the vast majority of duties qualifying for hazardous duty incentive pay, including non-crew member flight pay. Prior to amendment by the 1986 Authorization Act, Pub. L. No.99-145, *id*., §635(a)(3), 99 Stat. 648, 37 U.S.C. §301(c)(1) read as follows:

> For the performance of the hazardous duty described in [various clauses of subsection (a) of 37 U.S.C. §301, including non-crew member flight duty], an officer is entitled to $110 a month and [an] enlisted member is entitled to $83 a month.
>
> After amendment by the 1986 Authorization Act, Public Law 99-145, *id*., §635(a)(3), 99 Stat. 648, 37 U.S.C. §301(c)(1) reads as follows:
>
> For the performance of hazardous duty described in [the same clauses set out above, including non-crew member flight duty], a member is entitled to $110 a month.[9]

Thus, under current 37 U.S.C. §301, all members, both officers and enlisted personnel,[10] are entitled to $110 per month for the performance of non-crew member flight duties under qualifying orders.

The legislative history of the 1986 Authorization Act, Public Law 99-145, *id*., per se does not indicate the reason for eliminating the distinction between officers and enlisted personnel with respect to the rates of pay authorized for non-crew member flight duties, primarily because no report was ever submitted on the Senate bill, S. 1160, in which the proposal to equalize the rates of non-crew member flight pay for officers and enlisted personnel was made.[11] In fact, however, the proposal to equalize officer and enlisted rates of pay for various

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[8] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[9] The increase in hazardous duty incentive pay rates for enlisted personnel engaged in non-crew member flight duties became effective October 1, 1985. Section 635(b) of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(b), 99 Stat. 583, 648 (1985).

[10] The term, "member," is defined in 37 U.S.C. §101(23) to mean "a person appointed or enlisted in, or conscripted into, a uniformed service." As such, "member" includes both officers and enlisted personnel.

[11] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

> ...The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.
>
> When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....
>
> Most of Senate Report 99-41 continues to be applicable to this bill....

131 Cong. Rec.2438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... In addition, the Committee recommended increases or enhancements to a number of special and incentive pays ....
>
> The special and incentive pays ... involved in these recommendations include:

hazardous duties, including non-crew member flight duty, had been made the preceding year in connection with the consideration of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984). At that time, the Senate Committee on Armed Services, reporting out S. 2723, 98th Cong., 2d sess. (1984), had included a provision that would, among other things, have equalized officer and enlisted rates of hazardous duty incentive pay for non-crew member flight duty.[12] In support of its recommendation, the committee stated:

> The committee proposes that the enlisted and officer rates for several hazardous duty incentive pays be equalized....
>
> The Fifth Quadrennial Review of Military Compensation (QRMC) examined special and incentive pays in great detail. One of its conclusions was that the differential between enlisted and officer rates for seven hazardous duty incentive pays [including non-crew member flight pay] should be eliminated....
>
> The committee agrees that enlisted and officer personnel should be paid the same incentive for exposing themselves to similar hazards. Therefore, it recommends that the rates for these seven hazardous duty pays be changed to entitle both enlisted and officer personnel to $110 per month.[13]

The Senate proposal was eliminated in conference.[14]

As indicated immediately above, the non-crew member flight pay "enhancements" adopted as part of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., closely parallel recommendations advanced by the Fifth Quadrennial Review of Military Compensation in 1984.[15] In support of its recommendation to "[r]aise enlisted Non-Crewmember Flight Pay to $110 per month,"[16] thereby eliminating officer–enlisted differentials for that pay, the Fifth Quadrennial Review stated:

> Although the need for an incentive exists to some extent, the dominant factor associated with non-crewmember duties is the hazard associated with performing tasks in the

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Each of these benefit increases or enhancements is in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither S. Rep. No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the hazardous duty incentive pay program in general, or to the non-crew member flight pay program in particular, that were contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

[12] See Section 148 of S. 2723, 98th Cong., 2d sess. (1984).

[13] S. Rep. No. 98-500 (Committee on Armed Services), at 210 (discussing section 148 of the Senate bill, S. 2723), accompanying S. 2723, 98th Cong., 2d sess. (1984).

[14] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[15] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of he principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Fifth Quadrennial Review of Military Compensation was convened in 1982, pursuant to presidential directive, and its report and recommendations were submitted to Congress in early 1984.

[16] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 133. Also see *id*., 6; and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-5.

air rather than on the ground. Therefore, a flat rate of $110 per month is sufficient to recognize the risk and serve as an incentive for this category of officer and enlisted flyers.[17]

In further comment on officer-enlisted differentials for various hazardous duty incentive pays, including non-crew member flight duty, the Fifth Quadrennial Review stated:

During the process of reviewing the various Hazardous Duty Incentive Pays, it became increasingly clear that, although there is some incentive associated with certain pays, the primary purpose is recognition for the hazards or risks involved. It was, therefore, believed that officer/enlisted personnel should receive the same level of payment for seven of the Hazardous Duty Incentive Pays: [including] ... flight [pay]—non-crewmember....[18]

In arriving at this conclusion, the Fifth Quadrennial Review implicitly rejected the conclusions reached by the Hook Commission in 1948.[19] In commenting on various arguments that had been advanced in favor of and against continuation of officer–enlisted differentials for hazardous duty incentive pays in general, the Fifth Quadrennial Review summarized the argument against the Hook Commission's position in the following terms:

The Hook Commission rationale was based primarily on an examination of the needs of the aviation and submarine communities. Times have changed, and those communities now have their own separate career incentive pays and bonuses.[20]

Other arguments in favor of eliminating the differential were summarized as follows:

* All personnel, officer and enlisted, experience the same hazards.

* One can never really compensate for risk of life, no matter the level.

* Basic pay and bonuses are adequate to cover any differential.

* Most hazard-related pays now cover skills that are not necessarily career oriented (across all Services); hence, a differential is not necessary for purposes of retention. However, exceptions may occur and should be individually addressed, as required.

* [F]ield interviews [conducted by the Fifth Quadrennial Review of Military Compensation] with both officer and enlisted personnel indicate "same rate for same risk" is perceived as equitable in the hazardous duty areas.[21]

Whether for these or some other reasons, Congress did in fact eliminate officer–enlisted pay differentials for non-crew member flight duties in the 1986 Authorization Act, Pub. L. No. 99-145, *id*.

Reserve forces personnel[22] entitled to compensation for inactive-duty training are entitled to non-crew member flight pay when they perform qualifying duties under competent orders, provided Congress has

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[17]*Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 5, 133. Also see, *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-4, VI-5.

[18]*Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 919. See *id*., 36–37.

[19] See discussion of Hook Commission recommendations concerning officer–enlisted differentials at text accompanying footnote 5 to this chapter, above.

[20]*Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 920; *cf. id*., 37. (The "aviation community" referred to was that of rated flyers, not non-crew member flyers. Rated flyers are currently covered by the aviation career incentive and continuation pay programs. See Chapter II.D.1.b.(3), "Aviation Career Incentive Pay (ACIP) and Aviation Career Continuation Pay (AOCP)", hereof, below.)

[21] *Report of the Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 919–20.

[22] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve

appropriated sufficient funds for that purpose.[23] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying non-crew member flight duties while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[24] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying duty under 37 U.S.C. §301(f), also entitled to 1/30th of the non-crew member flight pay that would be payable to a member of the active-duty force who was performing such duties. Under regulations prescribed by the President, a member of a reserve force who performs non-crew member flight duties under 37 U.S.C. §301(f) while engaged in inactive-duty training is entitled to non-crew member flight pay.[25]

Flight pay for reserve forces personnel generally, and non-crew member flight pay in particular, derives from the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926). Section 6 of the Army Air Corps Act amended Section 20 of the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §20, 42 Stat. 625, 632 (1922), to give "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled. The extension of this special increase in compensation to members of the National Guard came about as a result of a floor amendment to the House bill, H.R. 10827, 69th Cong., 1st sess. (1926), which established the Air Corps. In offering the amendment, Representative John Philip Hill of Alabama did not offer any particular justification for extending this pay to members of the National Guard. Rather, he simply noted that the bill had "the endorsement of the War Department, the Chief of the Air Service [the predecessor of the Air Corps] ... and the committee [on Military Affairs]."[26]

Flight pay for inactive-duty training was extended to "officers and enlisted men of the Naval Reserve ... performing aerial flights in the capacity of pilots ... as a part of their training" by the Naval Reserve Act of 1938, ch. 290, Pub. L. No. 75-732, §313, 52 Stat. 1175, 1184 (1938). Members of the Marine Corps Reserve were covered by a separate provision that gave such members the same benefits as conferred on members of the Naval Reserve. Naval Reserve Act of 1938, ch. 290, *id*., §2, 52 Stat. 1175. Insofar as personnel and compensation matters were concerned, the Naval Reserve Act had been patterned after the Army Air Corps Act, and as above noted, the Army Air Corps Act had extended flight pay entitlements to "officers, warrant officers,

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components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[23] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, non-crew member flight duties, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for non-crew member flight duties are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[24] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[25] See *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶80312; *cf. id*., ¶80311.

[26] 67 Cong. Rec. 8765 (1926) (statement of Representative Hill).

and enlisted men of the National Guard." The Naval Reserve Act was, however, more restrictive than the Army Air Corps Act had been. An amendment to the bill provided that the increase in compensation would apply to "only those actually serving as pilots of aircraft,"[27] whereas the Army Air Corps Act had extended the special pay to any member of the National Guard "participat[ing] regularly and frequently in aerial flights," independently of the member's status as a pilot or otherwise. Because no Navy or Marine Corps reserve personnel other than pilots were entitled to flight pay under the Naval Reserve Act of 1938, Navy and Marine Corps reserve personnel engaged in what would presently qualify as non-crew member flight duties would not have been entitled to hazardous duty incentive pay on account of performing such duties.

The Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), substantially reorganized the provisions of preceding law relating to inactive-duty training pay for reserve forces personnel. Section 3 of the 1948 Act, ch. 157, *id*., 62 Stat. 88–89, amended Section 14 of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14, 56 Stat. 359, 367 (1942), to give "officers, warrant officers, and enlisted personnel" of all the reserve forces entitlement to special pay for "perform[ing] aerial flights," among other things. As stated in the House report:

> The purpose of the bill is to standardize inactive training pay for all Reserve components of the various services and also to grant such inactive duty training pay to Army Reservists.
>
> The major departure in the legislation is the giving of this pay to the Army Reserves, including enlisted men. Such pay has been granted by the Congress heretofore to members of the National Guard and the Naval and Marine Corps Reserves....
>
> The committee considers the need for this pay to be apparent, even though it is unfortunate that the country must resort to it. The Army and Navy must maintain active Reserve components, or else, in time of war emergency, the Nation will have to depend exclusively upon the Regular services for its defense. They are patently incapable of doing such a job alone. So, in order to vitalize the National Guard and Reserve components, to get more people to participate so that they will fit promptly and effectively into the mobilization-day plans of the Armed Forces, inactive duty pay is to be given each participant at the rate of one-thirtieth of 1 month's base and longevity pay for each training period.... Such specialists as pilots, radar technicians, medical people, and so forth, will also be able to earn inactive duty training pay when the standards specified by the Secretaries [of the various departments] are met.[28] [29]

These provisions covered personnel of all the reserve forces performing non-crew member flight duties as a part of their inactive-duty training.

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), restated the provisions of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14, 56 Stat. 359, 367 (1942), as amended by the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat. 87, 88–89 (1948), insofar as the entitlement of reserve forces personnel to special pay for the performance of hazardous duties was concerned. Section 501 of the Career Compensation Act of 1949, ch. 681, *id*., 63 Stat. 825–27, dealt generally with the entitlement of reserve forces personnel to compensation for inactive-duty training. Subsection (d) of Section 501, 63 Stat. 826, generalized the entitlements to hazardous duty incentive pay of reserve forces personnel

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[27] H.R. Rep. No. 2763 (Committee of Conference), at 3, accompanying H.R. 10594, 75th Cong., 3d sess. (1938).

[28] H.R. Rep. No. 80-971 (Committee on Armed Services), at 1–2, accompanying H.R. 3227, 80th Cong., 1st sess. (1947). See S. Rep. No. 80-625 (Committee on Armed Services), at 1, accompanying S. 1174, 80th Cong,, 1st sess. (1947).

[29] Section 14(c) of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14(c), 56 Stat. 359, 367 (1942), as amended by Section 3 of the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat. 87, 88–89 (1948), extended special pay to "personnel required to perform aerial flights, parachute jumping, glider flights, or submarine duty" in connection with inactive-duty training. As stated in S. Rep. No. 80-625 (Committee on Armed Services), at 2, accompanying S. 1174, 80th Cong., 1st sess. (1947): "Increases in pay authorized by law for flying, parachute jumping, submarine duty, *etc*., will be paid."

performing inactive-duty training by providing that hazardous duty incentive pay was available to such personnel whenever they were required by competent orders to perform any of the hazardous duties, set out at Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 810, for which active-duty personnel were entitled to hazardous duty incentive pay. The duties set out in Section 204(a) as qualifying for such pay included crew member and non-crew member flight duties, submarine duties, glider duties, parachute jumping duties, leprosy duties, explosives demolition duties, duty at a submarine escape training tank, and duty with certain diving units. [See Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 809–10.][30] No special reason was given for this reorganization of the provisions of prior law dealing with inactive-duty training pays, including inactive-duty training incentive pays for hazardous duties. The extension of incentive pay for hazardous duty to new classes of reserve forces personnel—e.g., to reserve forces personnel in an inactive-duty training status performing leprosy duties, explosives demolition duties, submarine escape training tank duties, etc.—appears to have derived from the extension of such pays to active-duty personnel, and not from any special concern about reserve forces personnel and whether they should be entitled to incentive pay for performance of various hazardous duties.[31] [See, e.g., chapters of this book dealing with explosives demolition duty pay, parachute duty pay, etc.]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §647, 99 Stat. 583, 655 (1985), amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hour resources.
>
> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP for flying be permitted to credit active duty or inactive duty training flight time to fulfill active or inactive duty flight time requirements.[32]

While the concern that led to the amendment at issue was the appropriate use and apportionment of flying time, the amendment to 37 U.S.C. §301(f) was stated in broader terms, so that it applies to any of the

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[30] The inactive-duty training pay provisions contained in section 501 of the Career Compensation Act of 1949, ch. 681, *id*., §501, 63 Stat. 825–27, were classified to 37 U.S.C. §301, whereas the hazardous duty incentive pay provisions set out in Section 204 of the Career Compensation Act, ch. 681, *id*., §204, 63 Stat. 809–10, were classified to 37 U.S.C. §235. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions relating to hazardous duty incentive pay entitlements of reserve forces personnel were codified at 37 U.S.C. §301, together with the hazardous duty incentive pay provisions relating to active-duty personnel. The current structure of hazardous duty incentive pay entitlements— including hazardous duty incentive pay for non-crew member flight duty—for reserve forces personnel performing inactive-duty training thus derives from the organization imposed on Title 37 by the Act of September 7, 1962, Pub. L. No. 87-649, *id*.

[31] The Hook Commission, whose report led to the adoption of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), did not concern itself with reserve forces compensation in any way. See, e.g., "Terms of Reference," the charter given to the Hook Commission by the then Secretary of Defense, James Forrestal, in *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, vii–viii.

[32] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).

hazardous duties set out in 37 U.S.C. §301(a), and not just flight pay. Thus, for any month in which a member of a reserve force is involved both in active-duty and inactive-duty training for which he or she is entitled to hazardous duty incentive pay under 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on the combined entitlement for both active-duty and inactive-duty training.

Non-crew member flight duty was among several forms of hazardous duty that received a pay increase from $110 per month to $150 per month in the National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1787 (1997).

Until 2003, the conditions of entitlement to non-crew member flight pay for both active-duty and reserve forces personnel were set out in Section 103 and 104 of Executive Order 11157, as amended,[33] in various supplementary regulations adopted by the service Secretaries pursuant to Section 113 of Executive Order 11157, and in the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R. Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to demolition pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments.

Current rate of non-crew member flight pay: The current rate of pay for non-crew member flight duties for both officers and enlisted members is $150 per month.

Cost: For the cost of non-crew member flight pay from 1972 to 2016, see table II-11, below.

Table II-11. Flight Pay (Non-Crew Member), 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	10,139	$7,579	1,257	$1,661	8,882	$5,918
1973	7,918	5,822	904	1,193	7,014	4,629
1974	6,167	4,533	699	923	5,468	3,610
1975	6,541	5,132	1,233	1,628	5,308	3,504
1976	5,950	4,643	1,086	1,433	4,864	3,210
1977	5,722	4,449	1,020	1,346	4,702	2,702
1978	5,397	4,312	1,136	1,500	4,261	2,812
1979	5,286	4,274	1,189	1,570	4,097	2,704
1980	5,662	4,680	1,412	1,866	4,250	2,814
1981	6,037	5,006	1,549	2,044	4,488	2,962
1982	5,505	5,798	976	1,287	4,529	4,511
1983	5,752	6,058	1,011	1,335	4,741	4,723
1984	5,753	6,081	1,077	1,423	4,676	4,658
1985	5,995	5,340	2,022	1,383	3,973	3,957
1986	4,626	6,107	438	578	4,188	5,529
1987	4,308	5,688	444	587	3,864	5,101
1988	4,205	5,523	469	619	3,736	4,904
1989	3,670	4,845	489	646	2,181	4,199
1990	4,707	6,215	439	580	3,850	5,081
1991	6,155	8,125	1,164	1,537	4,991	6,588

[33] Reproduced, as amended, at 37 U.S.C. §301 note.

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1992	3,754	4,947	322	425	3,432	4,522
1993	2,249	2,968	314	414	1,935	2,554
1994	2,352	3,104	299	394	2,053	2,710
1995	2,966	3,914	240	316	2,726	3,598
1996	1,881	2,483	214	282	1,667	2,201
1997	1,655	2,185	222	293	1,433	1,892
1998	6,906	13,071	148	259	6,758	12,812
1999	6,655	14,699	169	304	6,486	14,395
2000	2,465	4,922	646	1,402	1,819	3,520
2001	2,428	4,335	635	1,322	1,793	3,013
2002	2,715	3,539	536	1,247	2,179	2,292
2003	3,042	4,795	1,104	1,280	1,938	3,515
2004	3,069	6,076	751	1,693	2,318	4,383
2005	2,063	5,621	743	3,245	1,320	2,376
2006	1,797	3,353	447	939	1,350	2,414
2007	1,879	3,560	619	1,291	1,260	2,269
2008	1,693	3,211	577	1,202	1,116	2,009
2009	1,586	2,909	214	385	1,372	2,524
2010	1,489	2,681	218	393	1,271	2,288
2011	1,459	2,628	208	376	1,251	2,252
2012	1,456	2,620	209	376	1,247	2,244
2013	1,525	2,745	211	380	1,314	2,365
2014	1,129	2,032	171	308	958	1,724
2015	1,022	1,839	148	267	874	1,572
2016[1]	1,093	1,969	148	268	945	1,701

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.D.1.b.(3)
Aviation Incentive Pay (AvIP) and Aviation Bonus (AvB)

Legislative Authority: 37 U.S.C. §334, previously 37 U.S.C. §301a and §301b.

Purpose: To provide additional pay for aviation service in order to increase the ability of the uniformed services to attract and retain officer volunteers in a military aviation career. As prescribed by 37 U.S.C. §334(h)(1), the term "aviation service" means service performed by an officer in a regular or reserve component while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.

Background: The practice of providing additional pay to military personnel for undertaking flying duty has a long tradition. Aviation incentive pay (AvIP), which was previously known as aviation career incentive pay (ACIP) as adopted by the Aviation Career Incentive Act of 1974, Pub. L. No. 93-294, §2, 88 Stat. 177, 177–79 (1974), to replace the preexisting flight-pay program.[1] The purpose underlying the creation of ACIP was described by Congress as follows:

> The purpose of the bill is to restructure the flight-pay system of the Armed Forces so as to achieve a more equitable distribution of flight pay and increase the ability of the Armed Forces to attract and retain officer aviator crewmembers....
>
> H.R. 12670 removes flight pay for officers from Section 301 of Title 37, United States Code, which provides "incentive pay: hazardous duty" and puts it in a new Section 301a which provides for "incentive pay: aviation career." The new section thus recognizes the committee's desire to define flight pay as not simply recompense for undertaking occasional hazardous duty but as an incentive pay for undertaking a career that is, on a continuing basis, more hazardous than other service careers and at the same time involves a capacity to absorb special professional training which represents a considerable investment on the part of the Government.[2]

Representative Young of Florida, a member of the House Armed Services Committee, voiced the same theme in more down-to-earth language during the hearings on an earlier bill:

> If we are going to call it flight pay then they ought to be paid for flying, but there should, in my opinion, be some type of incentive or career pay for the men and women, if that be the case, that fall in these categories. I would hope we would find a way to go to the Congress with a program that would, in fact, provide for this money, but not give it the title of flight pay because it is a very deceiving situation.... We ought to devise some different program or different approach to the Congress and call it what it is, an incentive pay or a career pay rather than flight pay.[3]

To create an incentive for officers to undertake a career in military aviation, the Aviation Career Incentive Act of 1974 (1) established a system whereby an officer involved in the "frequent and regular performance of operational or proficiency flying duty" under competent orders was entitled to continuous aviation career incentive pay independently of whether, during any given year, the officer was actually assigned

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[1] For a discussion of the flight-pay program and a history of the rates of pay authorized thereunder, see Chapter II.D.1.b.(1), "Flight Pay (Crew Member)," above.

[2] H.R. Rep. No. 93-799 (Committee on Armed Services), at 1 and 3, and S. Rep. No. 93-841 (Committee on Armed Services), at 3 and 5, accompanying H.R. 12670, 93d Cong., 2d sess. (1974). Also see *Report of the 1971 Quadrennial Review of Military Compensation*, Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs, Department of Defense, 1971.

[3] *Hearings on H.R. 8593 before Subcommittee No. 4 of the House Armed Services Committee*, 93d Cong., 1st sess. 104 (1973).

to flying duty; (2) set ACIP rates based on the length of an officer's aviation service rather than on grade and total military service, although years of officer service were used in determining such rates for more senior officers, i.e., those with more than 18 years of officer service; (3) set the highest ACIP rates for the years immediately following the completion of an officer's first obligated tour, which normally coincided with the retention-critical, flight-intensive, period of a career; (4) provided for the progressive phasing out of ACIP entitlements in the senior, less-flight-intensive years of a commissioned career, with total elimination of ACIP entitlements after 25 years of officer service; and (5) replaced the former "excusal" system with a set of operational flying-time standards, or "gates," for entitlement to continuous monthly ACIP.[4]

The ACIP rates prescribed in the 1974 Act were:

Commissioned Officers

Phase I

Years of Aviation (Service including Flight Training) as an Officer	Monthly Rate
2 or less	$100
Over 2	125
Over 3	150
Over 4	165
Over 6	245

Phase II

Years of Service as an Officer as Computed under 37 U.S.C. §205	Monthly Rate
Over 18	$225
Over 20	205
Over 22	185
Over 24	165
Over 25	0

Warrant Officers

Years of Aviation Service as an Officer	Monthly Rate
2 or less	$100
Over 2	110
Over 6	200

Note 1: ACIP for officers of pay grade O-7 could not be more than $160 a month and that for officers of pay grade O-8 or above, not more than $165, regardless of years of service.

Note 2: Officers with more than 18 years of officer service but less than six years of aviation service received Phase I rates.

Under the ACIP "gate" system, an officer qualified for aviation service, except a flight surgeon or other medical officer, was entitled to continuous ACIP at the appropriate rate (1) until completion of 12 years of

[4] See the legislative history section of this chapter for a fuller explanation of the reasons for this structuring of the ACIP system.

aviation service; or (2) with at least six years of operational flying duty at the 12-year gate, until completion of 18 years of aviation service; or (3) with at least nine but fewer than 11 years of operational flying duty at the 18-year gate, until completion of 22 years of officer service; or (4) with at least 11 years of operational flying duty at the 18-year gate, until completion of 25 years of officer service in the case of a commissioned officer, or for as long as still qualified in the case of a warrant officer. An officer not entitled to continuous ACIP because of failure to make a gate but who was required by competent orders to perform operational or proficiency flying duty was nevertheless entitled to ACIP on a monthly basis with the performance of at least four hours of aerial flight a month. A flight surgeon or other medical officer required by competent orders to perform operational flying duty was also entitled to monthly ACIP for the performance of at least four hours of aerial flight a month.

Effective September 1, 1980, ACIP rates for commissioned and warrant officers were increased 25 percent across the board by the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §2(b), 94 Stat. 1123, 1124 (1980), because, in the words of the conference report, of the "need for and desirability of" such increases to improve retention.[5] In addition, the maximum rates payable to officers in pay grade O-7 was increased to $200 and to officers in pay grade O-8 or above, to $206. [See Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, *id*., §2(b), 94 Stat. 1124.]

The perceived aviator-retention problem was also addressed in another piece of legislation approved the same day, the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §806(a)(1), 94 Stat. 1077, 1095–1096 (1980). The latter act effectively established a special continuation pay for aviation career officers, codified at 37 U.S.C. §301b and commonly referred to as aviation career or aviation officer continuation pay (AOCP). Specifically, the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, *id*., authorized, under regulations required to be prescribed by the Secretary of Defense (or the Secretary of Transportation with respect to the Coast Guard), the payment to a qualified and electing officer of up to four months' basic pay for each year the officer agreed to remain on active duty beyond the expiration of the officer's obligated service. Officers qualified for such pay had to (1) be entitled to ACIP under 37 U.S.C. §301a, (2) be in a pay grade below O-7, (3) be qualified to perform "operational flying duty," as that term is defined in 37 U.S.C. §30la(a)(6), (4) have at least six but fewer than 18 years of aviation service as an officer, (5) be in an aviation specialty designated as "critical," and (6) have executed a written agreement to remain on active duty in aviation service for at least one year. The aviation career continuation pay authorized by the provision at issue was in addition to any other pay and allowances, including ACIP, to which an affected officer might otherwise be entitled. Any agreement adopted under the provision in issue could not extend beyond the time an affected officer would complete 19 years of aviation service.

The provisions for aviation career continuation pay adopted in the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §806(a)(1), 94 Stat. 1077, 1095–1096 (1980), were amended by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §113, 95 Stat. 989, 995 (1981), to limit their application to specified circumstances. First, the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., provided that the only agreements that could be accepted under the program for aviation career continuation pay between October 14, 1981, the date of adoption of the act, and September 30, 1982, were agreements executed by Navy or Marine Corps officers. Second, the act provided that any officer receiving aviation career continuation pay under an agreement covering a particular period of time could not receive ACIP under 37 U.S.C. §301a at a rate higher than the rate in effect on September 30, 1981.[6] Finally, the act provided, in essence, that no agreements under the program for aviation career continuation pay could be accepted after September 30, 1982.

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[5] H.R. Rep. No. 96-1233 (Committee of Conference), at 15, accompanying H.R. 5168, 96th Cong., 2d sess. (1980).

[6] In addition to amending the aviation career continuation pay program, the Uniformed Services Pay Act, Pub. L. No. 97-60, §112(b), 95 Stat. 989, 995 (1981), generally increased ACIP rates. See second following paragraph and ACIP rate table, as in effect after passage of the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §112(b), 95 Stat. 989, 995 (1981), on following page.

As explained in the relevant congressional report, authority to make aviation career continuation payments was restricted to Navy and Marine Corps officers because they were the main category of officers experiencing "retention problems."[7] Similarly, the provision forbidding ACIP payments at rates exceeding those in effect on September 30, 1981, to officers receiving aviation career continuation pay was intended to ensure that affected officers "not be entitled to the increased rates of [ACIP] during the period obligated as a result of the [continuation pay] bonus."[8] And the authority to make such payments at all was terminated as of September 30, 1982, because Congress felt "the [continuation pay] bonus to be an inappropriate solution to long-term retention problems" with military aviators.[9] As explained in the Senate report, Congress had originally adopted the program for aviation career continuation pay to allow the services to deal with "aviation specialties where retention problems and shortages exist that cannot be addressed by other management action or initiatives," and the 1981 amendments to the program were, at least in the contemplation of Congress, needed to restrict its applicability to precisely those situations.[10]

In addition to limiting the applicability of aviation career continuation pay as indicated above, the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., §112(b), 95 Stat. 995, increased, effective October 1, 1981, ACIP rates for "retention critical" career-decision-point commissioned officers—those with more than six years of service—as well as for senior officers referred to as Phase II officers. The act also increased ACIP rates for warrant officers to the same rates authorized for so-called Phase I commissioned officers, thereby coincidentally increasing the number of years-of-service categories applicable to such officers. Finally, the 1981 Act extended ACIP entitlements to commissioned officers in pay grade O-6 or below with more than 25 years of service who were, despite their seniority, nevertheless required to perform flying duties.

As explained in the relevant Senate report, ACIP rates were increased for all aviators—both commissioned and warrant officers—with more than six years of aviation service "to improve retention and reduce ... shortages" of qualified personnel, thus combating what was perceived as an increasingly "serious shortage."[11] Officers with more than six years of aviation service were targeted in particular "to provide the greatest incentive during the flight-intensive, retention-critical, mid-career years."[12] ACIP rates for so-called "mid-career" officers having been thus raised, rates for the more senior Phase II officers also were increased "by a comparable amount to create an orderly incentive pay reduction" mechanism— rather than an abrupt drop—by which ACIP entitlement was to be gradually phased out.[13] Finally, ACIP entitlement was extended to commissioned officers in pay grade O-6 or below with more than 25 years of service who were actually required to perform flying duties in recognition of Congress's feeling that it was "inequitable to ask these officers to perform flying duties on a regular basis and not be given the incentive pay that men junior to them who are performing the same functions receive."[14] According to the Senate report, this situation arose as "recent aviator shortages" among more junior personnel substantially increased the number of senior officers required to perform flying duties.[15]

As increased by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., ACIP rates for commissioned and warrant officers were thus:

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[7] S. Rep. No. 97-146 (Committee on Armed Services), at 9, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[8] S. Rep. No. 97-146 (Committee on Armed Services), at 9–10, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[9] S. Rep. No. 97-146 (Committee on Armed Services), at 10, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[10] S. Rep. No. 97-146 (Committee on Armed Services), at 9, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[11] S. Rep. No. 97-146 (Committee on Armed Services), at 9, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[12] S. Rep. No. 97-146 (Committee on Armed Services), at 9, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[13] S. Rep. No. 97-146 (Committee on Armed Services), at 9, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[14] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[15] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).

Commissioned Officers

Phase I

Years of Aviation Service (including Flight Training) as an Officer	Monthly Rate
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	400

Phase II

Years of Service as an Officer as Computed under 37 U.S.C. §205	Monthly Rate
Over 18	$370
Over 20	340
Over 22	310
Over 24	280
Over 25	250

Warrant Officers

Years of Aviation Service as an Officer	Monthly Rate
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	400

Note: ACIP for officers in pay grade 0-7 was limited to $200 per month and that for officers in pay grade 0-8 or above, to $206.

The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §904(a)(1) and (2), 97 Stat. 614, 635–36 (1983), amended aviation career continuation pay in a number of regards. First, eligibility for aviation officer career continuation pay under 37 U.S.C. §301b during the period October 1, 1983, to September 30, 1984, was limited to officers of the Navy and Marine Corps who were pilots, whereas under the preexisting program, non-pilots as well as pilots had been eligible for continuation pay. Second, a number of restrictions were attached to the types of continuation agreements that could be accepted by the Navy and Marine Corps: under the 1984 Authorization Act, the only continuation agreements that could be accepted were those executed by an officer who had at least six but fewer than 11 years of active service, who had completed the minimum service required for aviation training, and who had not previously received aviation career continuation pay under 37 U.S.C. §301b; in addition, an acceptable agreement had to require the officer in question to remain on active duty in aviation service either three or four years. An officer meeting the stated criteria was eligible for up to $4,000 in aviation career continuation pay for each year of a three-year agreement and up to $6,000 for each year of a four-year agreement. In derogation of the normal three- or four-year rule, a special provision allowed a six-year agreement to be accepted from an officer who had completed fewer than seven years of

active duty, in which case the officer was eligible for up to $6,000 for each year of the six-year agreement.[16] Third, another provision withdrew entitlements to hazardous duty incentive pay under 37 U.S.C. §301 during any period an officer was obligated to serve under a continuation agreement accepted under 37 U.S.C. §301b. While limiting the program as indicated, the 1984 Authorization Act did extend the termination date for the program from September 30, 1982, to September 30, 1984.[17]

In explanation of these restrictions, the Senate Armed Services Committee noted:

> In passing the fiscal year 1981 Defense Authorization Act, the Congress enacted a new continuation bonus for aviation officers in an effort to improve the serious manning shortages in these skills. Subsequent to its original enactment, the bonus was limited to Navy and Marine Corps aviators only.... Both services request that their authority to pay it [AOCP] be renewed.
>
> The Committee, however, is concerned that the implementation of the aviation bonus by the Navy and Marine Corps has not fully achieved its intended goal of targeting bonus dollars to specific aviation specialties and to the career points where shortages which cannot be addressed by other management actions exist....
>
> ... [I]n [agreeing to] extend ... the authority, the Committee recommends the following changes to the aviation bonus program:
>
> a. Extend the authority to September 30, 1984, and continue to restrict its use to only Navy and Marine Corps aviators; however, aviators who receive the bonus will continue to receive Aviation Career Incentive Pay rates in effect on September 30, 1981;
>
> b. Allow only 3-, 4-, or 6-year contracts and limits [sic] each aviator to one contract during his eligibility;
>
> c. Limit the maximum bonus amounts to $6,000 per year for a 4- or 6-year commitment and $4,000 per year for a 3-year commitment;
>
> d. Limit eligibility for the bonus to those aviators who have at least six but less than eleven years of active duty.[18]

In conference, eligibility for aviation career continuation pay was restricted to pilots. As explained in the House and Senate conference reports:

> The House recedes [to the Senate proposal highlighted above] with an amendment limiting the eligibility for the bonus to pilots. Although the naval flight officers are critical to the operations of Navy and Marine Corps aircraft, the conferees authorized the bonus only for the purpose of reducing critical shortfalls in manning. A substantial shortage exists for pilots, but the conferees agree that a similar shortage presently does not exist for naval flight officers.

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[16] That is, during the period October 1, 1983, to September 30, 1984, the basic authority that provided for aviation career continuation pay in some multiple of basic pay was effectively suspended in favor of an upper limit of either $4,000 per year of a three-year agreement or $6,000 per year of a four- or six-year agreement. Since the minimum basic pay of an officer in pay grade O-3 with more than six years of service—and any officer executing a continuation agreement should at least have been in pay grade O-3 with more than six years of service—was more than $2,000 per month, the $4,000 and $6,000 per-year limitations on continuation agreements had the effect of keeping the actual payment below the level theoretically authorized for an officer executing a continuation agreement.

[17] Since the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, 97 Stat. 614 (1983), was not enacted until September 24, 1983, see 97 Stat. 707, there was a hiatus in the aviation career continuation pay program from October 1, 1982, to September 24, 1983, during which no continuation agreements whatsoever could be accepted.

[18] S. Rep. No. 98-174 (Committee on Armed Services), at 216–17, accompanying S. 675, 98th Cong., 1st sess. (1983). See S. Rep. No. 98-213 (Committee of Conference), at 224–25, and H.R. Rep. No. 98-352 (Committee of Conference), at 224–25, accompanying S. 675, 98th Cong., 1st sess. (1983).

> Therefore, it is appropriate to limit the use of the aviation officer career bonus in fiscal year 1984 to address only the shortages of Navy and Marine Corps pilots.[19]

Despite the expressed intention to limit aviation career continuation pay to Navy and Marine Corps pilots, the Department of Defense Appropriations Act, 1984, Pub. L. No. 98-212, Title I, 97 Stat. 1421 (1983), without expressly overturning the amendments to 37 U.S.C. §301b made by the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, *id*.,[20] effectively reinstituted authority to make AOCP payments to all aviators, pilots and flight officers alike, although the act did indicate that the bonus should be paid to "aviation specialties where shortages actually exist." Pursuant to the authority granted in the 1984 Appropriations Act, the Navy and Marine Corps began making aviation career continuation pay available to all eligible aviators, pilots and flight officers, in January 1984.[21]

In hearings held before the Manpower and Personnel Subcommittee of the Senate Committee on Armed Services in March 1984, Navy and Marine Corps officials testified that only the Navy continued to have a pilot shortage.[22] As a result of this finding, the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §622, 98 Stat. 492, 2540–2541 (1984), removed Marine Corps aviators from the category of officers eligible for aviation career continuation pay. At the same time, the 1985 Authorization Act broadened the category of naval aviators eligible for the pay to include all naval aviators, not just pilots. In addition, the 1985 Authorization Act extended the termination date for the program to September 30, 1985.

In support of this action, the Senate Committee on Armed Services stated:

> After thoroughly reviewing this matter, the committee recommends a provision ... extending the authority to pay the Aviation Officer Continuation Pay for one additional year, through September 30, 1985. Because the Marine Corps no longer has a shortage of aviators in the grades and years of service for which the bonus is authorized, the committee has restricted the payment of the bonus to Navy aviators only. The committee reiterates that this bonus should not be applied across-the-board to all Navy aviators, but should be targeted to those aviation communities where shortages actually exist.
>
> . . .
>
> Despite the original congressional intent that the Aviation Officer Continuation Pay be used as a short-term bonus to restore aviation retention to required levels, there is some indication that Navy officers are beginning to regard this bonus as a longer-term career aviation pay. The committee notes that the current Aviation Career Incentive Pay was designed to meet this goal for all of the Services.[23]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §636, 99 Stat. 583, 648 (1985), further extended the authority for aviation career continuation pay, this time to September 30, 1987. The Senate, which had originally proposed a one-year extension only, stated:

> In fiscal year 1985, authority exists for the payment of aviation officer continuation pay to Navy aviators in aviation communities where shortages actually exist. The committee

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[19] H.R. Rep. No. 98-352 (Committee of Conference), at 224–25, and S. Rep. No. 98-213 (Committee of Conference), at 224–25, accompanying S. 675, 98th Cong., 1st sess. (1983).

[20] For a discussion of the reasons underlying the limitation on the payment of AOCP to pilots contained in the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, 97 Stat. 614 (1983), see text accompanying footnote 19 to this chapter, above.

[21] S. Rep. No. 98-500 (Committee on Armed Services), at 209, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[22] S. Rep. No. 98-500 (Committee on Armed Services), at 209, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[23] S. Rep. No. 98-500 (Committee on Armed Services), at 209–10, accompanying S. 2723, 98th Cong., 2d sess. (1984). See H.R. Rep. No. 98-1080 (Committee of Conference), at 297–98, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

> recognizes that the Navy has experienced an increase in pilot resignations in recent months, which is believed to be due primarily to increased hiring by the airline industry....
>
> The committee believes that the authority that existed in fiscal year 1985 for this pay should be continued through fiscal year 1986. The committee expects that this pay will continue to be targeted only to Navy aviators in aviation communities where actual shortages truly exist.[24]

The House, which had proposed a three-year extension, agreed to a two-year extension, until September 30, 1987, in conference.[25]

The National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §631, 100 Stat. 3816, 3883 (1986), amended the AOCP program in two regards: first, by extending the authority of the Secretary of Defense to accept a six-year agreement from officers who had completed fewer than eight years of active duty, as opposed to the seven years of active duty that had been the cutoff point under provisions adopted by the 1984 Authorization Act;[26] and, second, by eliminating the prohibition on the receipt of any form of hazardous duty incentive pay under 37 U.S.C. §301 by officers receiving AOCP.[27] Both changes were made at the urging of the Department of Defense.[28] As indicated in the report filed by the Senate Committee on Armed Services with respect to the proposal to allow officers with up to eight years of active duty to enter into six-year continuation agreements,

> ... under present law, only aviators with less than seven years of active duty may sign an agreement to remain on active duty for six years and receive AOCP at a rate of $6,000 a year for each of those six years. The Department of Defense has requested that this "window" be expanded to include those with less than eight years of active duty. The committee concurs ... and recommends this change.[29]

With respect to the proposal to permit aviators receiving AOCP also to receive hazardous duty incentive pay under 37 U.S.C. §301 if assigned to a qualifying billet, the House Committee on Armed Services simply noted that its proposal

> ... would eliminate the current statutory restriction against receipt of hazardous duty incentive pay by officers serving under aviation continuation agreements. The recommended

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[24] S. Rep. No. 99-41 (Committee on Armed Services), at 194, accompanying S. 1029, 99th Cong., 1st sess. (1985).

[25] H.R. Rep. No. 99-235 (Committee of Conference), at 431, and S. Rep. No. 99-118 (Committee of Conference), at 431, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[26] See text accompanying footnote 16 to this chapter, above.

[27] In addition to these changes to the AOCP program, the 1987 Authorization Act, Pub. L. No. 99-661, *id*., also modified the ACIP program to include aviation flight cadets within the category of personnel eligible to have time spent in aviation cadet training count as "operational flying duty" for purposes of determining future entitlement to continuous aviation career incentive pay over a full military aviation career under the ACIP "gate" structure previously explained. As the Senate Committee on Armed Services noted:

... Under ACIP, certain milestones based on years of aviation service are used in determining continued eligibility for that pay. The 12 to 18 months spent in flight training is creditable as aviation service, but only if the student is an officer. This creates a substantial disincentive for enlisted personnel to pursue their aviation training through the NAVCAD [Navy Aviation Cadet] program because the time spent in training will be lost throughout their later careers for purposes of determining eligibility for ACIP.

See S. Rep. No. 99-331 (Committee on Armed Services), at 231–32, accompanying S. 2638, 99th Cong., 2d sess. (1986).

[28] See S. Rep. No. 99-331 (Committee on Armed Services), at 231, accompanying S. 2638, 99th Cong., 2d sess. (1986). *Cf.* H.R. Rep. No. 99-1001 (Committee of Conference), at 481, accompanying S. 2638, and H.R. Rep. No. 99-718 (Committee on Armed Services), at 204–5, accompanying H.R. 4428, 99th Cong., 2d sess. (1986).

[29] S. Rep. No. 99-331 (Committee on Armed Services), at 231, accompanying S. 2638, 99th Cong., 2d sess. (1986).

> change would affect, perhaps, 50 aviators assigned, for example, to carrier flight deck duties—very demanding sea billets that are difficult to fill.[30]

The National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §622, 101 Stat. 1019, 1100–1101 (1987), again amended the AOCP program, this time in four major particulars. Under prior practice, the basic statute provided generalized authority, codified at 37 U.S.C. §301b(a), for the Secretary of Defense to accept continuation agreements from aviation officers in the different services, with AOCP entitlements limited to a maximum of four months of basic pay multiplied by the number of years covered by a continuation agreement. However, that generalized authority had been limited by successive authorization acts that codified the limitations to the generalized authority at 37 U.S.C. §301b(e). Among other things, those acts provided that the only officers from whom continuation agreements might be accepted during a specifically prescribed period were officers who never had previously received aviation career continuation pay under 37 U.S.C. §301b, and that the maximum amount of an AOCP payment to a given officer could not exceed $4,000 for each year of a three-year continuation agreement or $6,000 for each year of a four- or six-year continuation agreement.

In particular, the generalized program criteria and maximum rates of AOCP pay set out at 37 U.S.C. §301b(a) were in practice rather severely circumscribed by limitations set out at 37 U.S.C. §301b(e), which applied to agreements proffered by aviation officers during specified periods of time. In the first amendment to the AOCP program, the National Defense Authorization Act for Fiscal Years 1988 and 1989 effectively adopted the two previously identified special limitations in 37 U.S.C. §301b(e), applicable to specified periods of time, as program-wide limitations applicable to all agreements proffered thereafter. As its second and third amendments, the National Defense Authorization Act for Fiscal Years 1988 and 1989 extended the AOCP program through September 30, 1989, with the provision that during the period from October 1, 1987, to September 30, 1989, the only aviation career continuation agreements that might be accepted were agreements from Navy officers who had completed fewer than 11 years of active duty and who agreed to remain on active duty for an additional three or four years. As a special exemption, Navy officers who had completed fewer than eight years of active duty were permitted to enter six-year continuation agreements. As thus modified, the AOCP program was available to all Navy officers who met the basic program criteria set out at the newly amended 37 U.S.C. §301b(a)—including non-pilots as well as pilots. Fourth, and finally, the National Defense Authorization Act for Fiscal Years 1988 and 1989 repealed the prior provision that had prohibited officers receiving AOCP from receiving aviation career incentive pay (ACIP) under 37 U.S.C. §301a at rates higher than those in effect on September 30, 1981.

The amendments to the program for aviation career continuation pay adopted under the National Defense Authorization Act for Fiscal Years 1988 and 1989 came about as a result of recommendations made by the Department of Defense and incorporated in the Senate defense authorization bill, S. 1174, 100th Cong., 1st sess. (1987). As set out in the report of the Senate Committee on Armed Services:

> The Department of Defense has requested that the Navy's authority to pay aviation officer continuation pay be extended for two years beyond the current expiration date of September 30, 1987. In addition, the Department of Defense requested that the pay be enhanced by increasing the pay multiple for a six year contract from $6,000 to $8,000, by eliminating the requirement that bonus recipients receive aviation career incentive pay at lower rates, and by elimination of the requirement for six years of aviation service to be eligible for the pay. The committee recommends a provision ... adopting the Defense Department proposal, except for elimination of the six year aviation service eligibility requirement. The committee believes this eligibility requirement places the bonus at the appropriate career decision point. Enhancement of this bonus is necessary, especially in light of increased airline hiring that draws from military aviation communities. The committee directs that aviation officer continuation pay be applied

[30] H.R. Rep. No. 99-718 (Committee on Armed Services), at 204, accompanying H.R. 4428, 99th Cong., 2d sess. (1986).

> only to critically short, aviation skills, and that this bonus may not be offered to Naval Flight Officers except in those aviation communities in which a critical shortage of NFOs exists.[31]

The only part of the Department of Defense initiative recommended by the House Armed Services Committee, on the other hand, was the proposal to extend the termination date for aviation career continuation pay for two additional years.[32] The essence of the Senate proposal was adopted in conference—except for the proposal to increase the multiple for a six-year agreement from $6,000 to $8,000 per year—without specific comment on aviation career continuation pay in general, its objectives, or how it was working in practice.[33]

In 1988 Congress again revisited the question of aviation career continuation pay, this time adopting a new, provisional replacement program roughly patterned on, but somewhat different from, the existing program. In the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §611, 102 Stat. 1918, 1977–1979 (1988), Congress adopted an uncodified "aviator retention bonus" program that applied to aviation officers who, during the period January 1 to September 30, 1989, executed a written agreement to remain on active duty in aviation service for at least one year.[34] Officers entitled to participate in the program were officers who (i) were entitled to aviation career incentive pay under 37 U.S.C. §301a, (ii) were in pay grades below pay grade O-6, (iii) were qualified to perform "operational flying duty" as that term is defined at 37 U.S.C. §301a(a)(6), (iv) had completed at least six but fewer than 13 years of active duty, (v) had completed all active-duty service commitments incurred for undergraduate aviation training, and (vi) were in an aviation specialty designated by the Secretaries of their respective military departments, and approved by the Secretary of Defense, as "critical." A related provision restricted the designation of an aviation specialty as "critical" to those situations in which "there exists a current shortage of officers in that specialty." [See National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, *id*., §611(b)(2), 102 Stat. 1978.] A qualified officer who executed an approved agreement became eligible for "aviator retention bonus" payments of up to $12,000 for each year of an agreement that obligated the officer to remain on active duty through 14 years of commissioned service or up to $6,000 for each year of an agreement that obligated the officer to remain on active duty for one or two years. Refunds were required from any officer who entered an agreement but failed to complete the term of service called for in the agreement. As enacted, the National Defense Authorization Act, Fiscal Year 1989 provided that agreements under the former aviation career continuation pay program could not be accepted after December 31, 1988, thereby effectively short-circuiting the September 30, 1989, termination date that had been established for that program in the National Defense Authorization Act for Fiscal Years 1988 and 1989.

Under the provisional program, Congress required the Secretary of Defense to submit a report "describing the manner in which the authority provided ... is to be used" as well as an additional "comprehensive report on the retention of aviators in the Armed Forces" to include, among other things, "[a]n analysis of aviator requirements and inventories ... of the Armed Forces by grade and years of service, including a list of those aviators who are assigned to duty other than operational flying duty and a justification for such assignments" and "[a]n analysis of current and projected aviator retention rates in the Armed Forces and of those current and projected retention rates actually needed to meet the requirements of the Armed Forces," together with recommendations on "the initial active duty service commitment of aviators," "the integration of the aviator career incentive pay under section 301a of title 37, United States Code, and the aviator retention bonus ... into a structure that more efficiently supports the retention requirements for aviators in the Armed Forces," and "changes in the aviator management policies of the Armed Forces that would eliminate the disincentives cited by aviators as retention detractors." [See National Defense Authorization Act, Fiscal Year 1989, *id*, §611(h).][35]

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[31] S. Rep. No. 100-57 (Committee on Armed Services), at 146, accompanying S. 1175, 100th Cong., 1st sess. (1987); *cf.* H.R. Rep. No. 100-446 (Committee of Conference), at 643–44, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).
[32] H.R. Rep. No. 100-58 (Committee on Armed Services), at 204, accompanying H.R. 1748, 100th Cong., 1st sess. (1987): "[T]he committee does not support such enhancements [as recommended by the Department of Defense] at this time."
[33] H.R. Rep. No. 100-446 (Committee of Conference), at 643–44, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).
[34] For the full text of this "aviator retention bonus" program, see 37 U.S.C. §301b note.
[35] Reprinted at 37 U.S.C. §301b note.

As enacted, the provisional "aviator retention bonus" differed from the prior aviation career continuation pay in several respects. First, the "aviator retention bonus" was not limited to naval aviators, but instead covered all aviation officers of the armed forces in "aviation specialt[ies] designated ... as critical." Thus, subject to congressional funding through the defense appropriations process, aviators in the Air Force, the Army, and the Marine Corps theoretically could qualify for the "aviator retention bonus," in addition to Navy aviators.[36] Second, the new program eliminated the old pay program's restriction of officers to one continuation agreement. Under the provisional "aviator retention bonus" program, qualified officers could commit to completion of 14 years of commissioned service, in which case they were eligible for a bonus of up to $12,000 per year from the time they entered the agreement until they in fact completed 14 years of commissioned service. Alternatively, they could commit themselves to a succession of one- or two-year agreements, in which case they were eligible for up to $6,000 per year for as long as they continued to serve on active duty under an accepted agreement. Third, whereas the old program was available to officers in pay grades below pay grade O-7, the provisional "aviator retention bonus" was available only to officers in pay grades below pay grade O-6. Fourth, the "aviator retention bonus" was available only to officers who had completed "at least six but less than 13 years of active duty." By contrast, the prior program for aviation career continuation pay theoretically was available to officers who had completed "at least six but less than 18 years of aviation service as ... officer[s]," although the more restrictive provisions that had been set out at 37 U.S.C. §301b(e) had in practice limited the program to officers who had completed a maximum of 11 years of active duty. The effect of these latter two differences was to direct the "aviator retention bonus" to more junior, career-decisional aviators, as compared with the broader focus of the prior program for aviation career continuation pay.

The provisional "aviator retention bonus" was adopted essentially on the basis of recommendations put forward by the Department of Defense, although the House Armed Services Committee noted that it "shares the concerns of the Department of Defense about the projected dramatic increase in airline hiring during the next decade" and, therefore, aviator retention.[37] In contrast to the recommendation of the Department of Defense to adopt the new program as a permanent means of dealing with aviator shortages in critical skill areas,[38] Congress adopted the program as a provisional, nine-month authorization with a concomitant requirement to make various reports and recommendations to Congress on aviator requirements and inventories, retention rates, integration of the aviation career incentive pay program and the continuation bonus program, etc., to stimulate the Department of Defense to "evaluate critically all facets of its management of the aviator inventory and to also give equal scrutiny to the validity of stated aviator requirements, especially in non-flying positions" as well as to "evaluate critically the capability and desirability of realigning portions of the Air Force flying missions, such as airlift, to the Air National Guard and the Air Force Reserve" on the grounds that "[r]ealignment of certain flying missions from the active to the reserve force may have the potential of averting some of the aviator manning problems in the active force and may also be cost-effective in the long term."[39] To the end of ensuring that the required reports were in fact made by November 15 and December 1, 1988, respectively, the 1989 National Defense Authorization Act specifically provided that authority to make payments under the provisional "aviator retention bonus" program, which was, as above noted, to be effective

[36] Indeed, the program was specifically concerned with projected impending shortages of aviation officers in the Air Force. See, e.g., H.R. Rep. No. 100-563 (Committee on Armed Services), at 254, accompanying H.R. 4264, and S. Rep. No. 100-326 (Committee on Armed Services), at 94, accompanying S. 2355, 100th Cong., 2d sess. (1988).

[37] H.R. Rep. No. 100-563 (Committee on Armed Services), at 254, accompanying H.R. 4264, 100th Cong., 2d sess. (1988). See also S. Rep. No. 100-326 (Committee on Armed Services), at 93–94, accompanying S. 2355, 100th Cong., 2d sess. (1988); H.R. Rep. No. 100-753 (Committee of Conference), at 403–5, accompanying H.R. 4264, 100th Cong., 2d sess. (1988); and H.R. Rep. No. 100-989 (Committee of Conference), at 405–6, accompanying H.R. 4481, 100th Cong., 2d sess. (1988).

[38] S. Rep. No. 100-326 (Committee on Armed Services), at 93, accompanying S. 2355, 100th Cong., 2d sess. (1988).

[39] H.R. Rep. No. 100-753 (Committee of Conference), at 404–5, accompanying H.R. 4264, and H.R. Rep. No. 100-989 (Committee of Conference), at 406, accompanying H.R. 4481, 100th Cong., 2d sess. (1988).

during the period January 1 to September 30, 1989, "shall terminate effective December 2, 1988"—or before the program was scheduled to begin—if the reports were not received on time.[40]

In 1989, having indicated a desire to at least consider rationalizing "the integration of the aviator career incentive pay under section 301a of title 37, United States Code, and the aviator retention bonus ... into a structure that more efficiently supports the retention requirements for aviators in the Armed Forces" in the National Defense Authorization Act, Fiscal Year 1989, [41] Congress addressed both aviation career incentive pay and the aviator retention bonus. In the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §§631–632, 103 Stat. 1352, 1449–1453 (1989), Congress amended the preexisting aviation career incentive pay and effectively codified the provisional "aviator retention bonus" adopted by the National Defense Authorization Act for Fiscal Year 1989, as a replacement for the prior program.[42]

In amending the program, Congress amended both the rates of aviation career incentive pay and the preexisting "gate" structure. The rates of aviation career incentive pay were increased for warrant officers and Phase I commissioned officers with more than six years of aviation service as an officer—or as an aviation cadet—from $400 per month to $650 per month, and the rates for most Phase II commissioned officers were increased as well. In the latter category, the exceptions were officers with more than 25 years of service as officers and officers in pay grades O-7 and above.[43]

The "gate" structure for aviation career incentive pay was prospectively amended by the National Defense Authorization Act for Fiscal Years 1990 and 1991[44] essentially to require more operational flying duty during the early stages of a military aviation career for an officer to remain entitled to continuous ACIP over the course of a full aviation career.[45] Under the preexisting ACIP gate system, an officer qualified for aviation service was entitled to continuous ACIP through completion of 25 years of aviation service with the performance of operational flying duties for six of the first 12 and 11 of the first 18 years of aviation service, except that with the performance of operational flying duties for at least nine but fewer than 11 of the first 18 years of aviation service, the officer was entitled to continuous ACIP for the first 22 years of aviation service. Under the amended gate system, an officer qualified for aviation service was entitled to continuous ACIP through completion of 25 years of aviation service with the performance of operational flying duties for nine of the first 12 and 12 of the first 18 years of aviation service, except that with the performance of operational flying duties for at least 10 but fewer than 12 of the first 18 years of aviation service, the officer was entitled to continuous ACIP for the first 22 years of aviation service. Officers actually performing operational flying duty

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[40] Since the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, 102 Stat. 1918 (1988), was enacted on September 29, 1988, the deadlines for the required reports were somewhat short.

[41] National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §611(h)(2)(C)(ii), 102 Stat. 1918, 1979 (1988), reprinted at 37 U.S.C. §301b note.

[42] In adopting the substance of the "aviator retention bonus" program enacted by the 1989 National Defense Authorization Act as a replacement for the preexisting aviation career continuation pay program at 37 U.S.C. §301b, Congress did not amend the statutory catchline for the older program, with the result that the new program continues to be known by the same name as the older program.

[43] In amending the ACIP rate schedule, the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, *id*., also eliminated the "Over 24 Years of Service as an Officer" category.

[44] The effective date of the prospective amendments to the "gate" structure for aviation career incentive pay was October 1, 1991. National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §631(e)(1)(B), 103 Stat. 1352, 1450 (1989). See 37 U.S.C. §301 note.

[45] In connection with Congress's increased emphasis on having aviators perform more operational flying duty to remain entitled to continuous aviation career incentive pay, a separate provision of the 1990/1991 National Defense Authorization Act reduced the number of "non-operational flying duty positions" authorized for each of the Armed Forces. National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §633, 103 Stat. 1352, 1453–1454 (1989). (For the purpose of this particular provision, the term "non-operational flying duty position" was defined as a position identified by a military department that required the assignment of an aviator but did not include operational flying duty.)

remain entitled to aviation career incentive pay without regard to the gate system.[46] Under the amended gate system, the Secretaries of the military departments are permitted, on a case-by-case basis, to grant "waivers" to officers who have not met the operational flying duty requirements for their first 12 or 18 years of aviation service, so long as they have completed at least six years of operational flying duties while in aviation service. Officers who are granted "waivers" to the operational flying duty requirements set out in the gate system remain eligible to receive continuous monthly aviation career incentive pay.

In making permanent and codifying the substance of the provisional "aviator retention bonus" adopted by the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, *id*., the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L .No. 101-189, *id*., extended the program to apply to aviators who executed continuation agreements between January 1, 1989, and September 30, 1991.[47]

In proposing amendments to the incentive and special-pays programs for aviators and other provisions intended to deal with the problem of aviator retention and manning shortfalls generally, in 1989 the House and Senate Committees on Armed Services commented extensively on their respective perceptions of the underlying problems and how their proposals would address them. Because of the comprehensive treatment given to the problem of military aviator manning and retention problems in the context of perceived nationwide shortages of aviators, the Senate and House reports are quoted below *in extenso*. The report of the Senate Committee on Armed Services noted as follows:

> The committee recommends several provisions directed at improving the retention and utilization of military aviators. These provisions were developed on the basis of the aviator retention report submitted to the committee on December 1, 1988 as required by the National Defense Authorization Act for Fiscal Year 1989; a hearing the Subcommittee on Manpower and Personnel held on these provisions; and inputs received from individual military aviators from each military service. The committee believes that, together, these provisions provide a reasonable balance between the expectations of individual military aviators and the needs of the military services. The committee also believes that these provisions will improve the retention of military aviators to levels that will eliminate the projected shortages in the Navy and the Air Force.

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[46] Certain transitional provisions applied to officers who did not meet the new, higher "gate" requirements when the amendments took effect on October 1, 1991. Under these provisions, aviators with various periods of aviation service as of October 1, 1991, who had not then met the new "gate" requirements were either "grandfathered" or given additional time to meet the "gates."

[47] In addition to the provisions amending the programs for aviation career incentive pay and aviation career continuation pay and establishing limits on the number of "non-operational flying duty positions," the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, 103 Stat. 1352 (1989), in an effort to deal with aviator retention in a comprehensive manner, also established armed-services-wide minimum service requirements for aviators [*id*., §634, 103 Stat. 1454–1455], and required the Secretary of Defense to submit a report on the adequacy of the Servicemen's Group Life Insurance program in terms of the risks faced by aviators resulting from the performance of operational flying duties [*id*., §635, 103 Stat. 1455]. The new minimum service requirement for aviators who successfully complete pilot training on fixed-wing aircraft is eight years and for aviators who successfully complete such training on any other type of aircraft is six years; the minimum service requirement for aviators who successfully complete training as navigators or naval flight officers is six years. See 10 U.S.C. §653(a) and (b) as added to Chapter 37 of Title 10, United States Code, by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, *id.*, §634(a), 103 Stat. 1454. In general, the new minimum service requirements apply to persons who begin undergraduate flight training after September 30, 1990, although the new requirements do not apply to persons who graduate from any of the national service academies or any of the Senior Officers' Training Corps programs of the Armed Forces before January 1, 1992. See National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §634(b), 103 Stat. 1454–1455. The Comptroller General of the United States was also required to submit a report evaluating the effectiveness of aviator assignment policies and practices of the Armed Forces [*id*., §636, 103 Stat. 1455], and a sense-of-Congress provision urged the President to convene a commission to study the projected national shortage of aviators [*id*., §637, 103 Stat. 1455–1456].

The specific provisions are summarized below:

1. *Aviation Career Incentive Pay (ACIP)*.—The committee recommends ... the restructuring and enhancement of aviation career incentive Pay [sic] authorized by [37 U.S.C. §301a]. Specifically, the committee recommends increasing the rate of aviation career incentive pay in the retention sensitive years, especially for aviation service over six year [sic] (from $400 per month to $650 per month). The provision would also smooth out the rates for aviators who have over 18 years of aviation service to eliminate pay inversions that result from the current steep reductions in rates.

Concurrently, this provision would require aviators to perform more years of operational flying duty in order to draw continuous monthly ACIP. Under the current ACIP structure, aviators must perform six of the first 12 years of aviation service and 11 of the first 18 years of aviation service in operational flying duties in order to draw continuous monthly ACIP. The provision would increase the operational flying requirement to 9 out of the first 12 years of aviation service and 12 out of the first 18 years of aviation service, respectively. The committee believes this change ensures an equitable return on the government's investment in the training and qualification of military aviators, and is consistent with the desires of aviators to spend the majority of their career in operational flying assignments.

The Department of Defense is expected to fund the increases authorized by this section within the amounts provided for the military personnel appropriation for fiscal year 1990.

2. *Aviator Retention Bonus*.—The committee recommends ... extension of the expiration date of the aviator retention bonus that was authorized on a temporary basis in the National Defense Authorization Act for Fiscal Year 1989 to September 30, 1992. The committee expects that the other improvements being recommended, operating in synergy with the bonus, would improve manning in aviation skills over the next few years to a point where the bonus can be phased out.

3. *Reduction in Nonoperational Flying Positions*.—The committee recommends ... a provision that would require the Department of Defense to reduce the number of nonoperational flying positions in the military services by five percent (two percent in fiscal year 1991 and three percent in fiscal year 1992). The committee believes the number of nonoperational flying positions in the military services to be excessive and inadequately justified.

4. *Minimum Active Duty Service Obligation for Aviators*.—The committee recommends ... a provision that would establish minimum active duty service obligations of nine years for fixed wing jet pilots and seven years for all other aviators. These obligations would begin upon completion of undergraduate aviation training, and are established to provide a reasonable return on the considerable investment made in the training and qualification of military aviators.

5. *Aviator Insurance*.—The committee recommends ... a provision that would require the Secretary of Defense to submit a proposal to the committee that would provide $100,000 in accidental death insurance for military aviators performing operational flying. The committee believes this provision appropriately recognizes the inherent risks in military flying.

6. *Report on Aviator Assignment Policies and Systems*.—The committee recommends ... a provision that would require the General Accounting Office to evaluate the aviator assignment policies and systems of the military services and to report to the committee on the effectiveness and efficiency of the policies and systems in assigning aviators to aviator positions and in accommodating individual preferences within the operational needs of the military services. The committee believes this provision is needed to address the substantial

and serious dissatisfaction expressed by a large number of military aviators about the lack of assignment visibility and their perception that the assignment system is preoccupied with filling squares with little regard to individual preferences. The committee does not expect 100 percent satisfaction; however, the committee believes the military services can do better in this area.

7. *Commission on the National Shortage of Aviators*.—The committee recommends ... a provision that would express the sense of the Senate that the President should convene a commission composed of airline industry, Department of Defense, and other interested parties to address the problem of the shortage of aviators in this country. The committee believes that this problem, which is also a problem in a number of other countries, merits such an effort.[48]

The 1989 report of the House Committee on Armed Services, on the other hand, noted as follows:

The committee and the Department of Defense remain concerned about continuing shortages of pilots in the military and the projected increase in civilian airline hiring of pilots during the next decade. For instance, the Navy is already considerably short of its requirements today and the Air Force projects a growing shortfall by 1994. By the year 2000, current projections suggest a nationwide shortage of about 12,000 pilots. In view of these shortages and because the preliminary aviator bonus take rate data indicate that additional retention incentives may be in order, the committee recommends a number of changes to existing law and the compensation package for military pilots.

Section 621 [of the House bill, H.R. 2461, 101st Congress, 1st Session (1989)] would: (1) increase Aviation Career Incentive Pay (ACIP) from a monthly payment of $400 to one of $650 for officers with more than six years of aviation service; (2) restructure ACIP for senior officers in order to avoid pay inversions; (3) authorize the service Secretaries to delay implementation of the new ACIP rate structure; and (4) increase operational flying requirements for all aviation officers in order to qualify for ACIP from 6 of the first 12 years to 9 of the first 12 years and from 11 of the first 18 years to 12 of the first 18 years.

Section 621 would also authorize the service Secretaries to waive the first of the above operational flying requirements (as long as a minimum requirement of 6 of the first 12 years is met) in order to comply with joint officer personnel policy, advanced educational requirements or unique service needs.

The new operational flying "gates" would apply to all aviation officers commencing pilot, navigator or flight officer training after September 30, 1991. In addition, aviation officers who have complied with current operational requirements for ACIP but who would not be able to meet the revised requirement structure would be "grandfathered" so that they not forfeit eligibility for this pay. When calculating ACIP for pilots with breaks in their active duty service, the aviation service date and officer service dates would be adjusted so that only active duty time would be used to determine whether officers qualify for ACIP.

Finally, section 621 would require the Secretary of Defense to submit a report no later than February 15, 1991 detailing the number of pilots in each service who fail to meet the initial operational flying requirement for ACIP, the extent to which the service Secretary has exercised his waiver authority with respect to those pilots, and an explanation of why those pilots did not comply with the operational flying requirements.

. . .

On a related matter, section 622 [of the same House bill, H.R. 2461, 101st Congress, 1st Session (1989)] would extend for two additional years the existing authority for the aviator retention bonus. The committee is concerned about the large number of pilots who testified at

[48] S. Rep. No. 101-81 (Committee on Armed Services), at 176–78, accompanying S. 1352, 101st Cong., 1st sess. (1989).

recent hearings indicating that they had accepted the bonus because it [i.e., the agreement of the pilots to remain on active duty for a specified number of years] ran concurrently with already existing service commitment [*sic*]. The committee is very concerned about the situation and expects that the service Secretary [*sic*] will take steps to ensure that active duty service obligations incurred as a result of accepting a bonus run consecutively with any other preexisting service obligations.

In addition, this provision would require the Secretary of Defense to submit an annual report including the following: (1) the appropriateness of targeting bonus payments based on a critical shortage in a given aviation specialty; (2) an assessment of other targeting options, such as payments based on the number of years of flying experience or the rated qualifications of officers; (3) an analysis of each year's bonus take rates, the effectiveness of existing bonus amounts as a retention incentive, and a detailed analysis of the costs of the bonus program.

. . .

The committee notes that there are more than 27,000 non-operational flying positions in the Department of Defense, representing some 40 percent of all aviator positions in the military. Because the committee believes that this figure is excessive, section 623 [of H.R. 2461, 101st Congress, 1st Session (1989)] would require each service to reduce by five percent the number of non-operational flying duty positions by September 30, 1992. This reduction would be incremental, with a two percent reduction required no later than September 30, 1991 and the remaining three percent no later than September 30, 1992.

. . .

Because there is a historical disparity in the minimum service obligation for aviation officers among the services (current obligations for pilots are eight years in the Air Force, seven years in the Navy, five years in the Army and four and one-half years in the Marine Corps), section 624 [of H.R. 2461, 101st Congress, 1st Session (1989)] would require the Secretary of Defense to submit a report on the rationale for these disparate service obligations, the legitimacy of interservice differences in view of service operational requirements, and the long-term desirability of a uniform minimum service obligation for pilots and other aviation officers in all services.

. . .

Section 625 [of H.R. 2461, 101st Congress, 1st Session (1989)] would require the Secretary of Defense to review the adequacy of current insurance coverage under the Servicemen's Group Life Insurance program and the practicality and desirability of providing an accidental death insurance plan for aviators and other crew members.

Section 625 would also require the Secretary of Defense to submit a report no later than February 15, 1990 including the Secretary's recommendations, if appropriate, on ways to improve and expand those benefits. In those recommendations, the Secretary should consider two options: a moderate increase in premiums and one at no cost. In addition, the Secretary should include recommendations on the advisability of providing such an enhanced program to all other active duty personnel whose peacetime career fields entail hazardous duty.[49]

[49] H.R. Rep. No. 101-121 (Committee on Armed Services), at 276–79, accompanying H.R. 1461, 101st Cong., 1st sess. (1989). Also see *id*., at 279, for a discussion of the proposed provisions requiring the General Accounting Office to report on the effectiveness and efficiency of aviator assignment policies and practices and the sense-of-Congress recommendation that the President convene a commission to consider the projected nationwide shortage of both military and civilian aviators in the 1990s and following.

In commenting on the proposed amendments to the aviation career incentive pay and the aviator retention bonus programs, the 1989 report of House–Senate Conference Committee followed up with these observations:

> The conferees believe that the substantial increase in ACIP in exchange for the requirement for more operational flying duty recognizes the vital role of military aviators in the overall combat effectiveness of our military forces and the desire of military aviators to spend more time in operational flying to hone their unique skills. The conferees recognize that military aviators are not solely motivated by monetary considerations in making career decisions. They are more motivated by job satisfaction: e.g., effective operational flying. The conferees believe both of these considerations are addressed by this provision [i.e., Section 631 of H.R. 1461, 101st Congress, 1st Session (1989), the bill ultimately adopted as the National Defense Authorization Act for Fiscal Years 1990 and 1991, Public Law 101-189, 103 Stat. 1352 (1989)].
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> What is not addressed in this provision is the desire expressed by many military aviators for further improvements in quality of life, such as better, less costly medical care for dependents; better, less costly housing; better, less costly child care; and more visibility and control of assignments. These are not concerns unique to military aviators. Some of these concerns are addressed in other provisions of this conference report. However, the conferees are mindful that more needs to be done. The conferees urge the Secretary of Defense to evaluate and propose initiatives accordingly.
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> . . .
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> [Concerning aviator retention bonuses, the] conferees expect the Navy and Air Force to use this authority, in coordination with the aviation career incentive pay increase, as a tool for retaining military aviators for operational flying duties. The conferees expect the report required by this provision to include a critical evaluation of whether or not the bonus authority needs to be continued beyond September 30, 1991, and if so, the justification for such an extension and a recommendation on any changes that should be made to improve the efficiency of the bonus.[50]

The "gate" structure of the aviation career incentive pay program was amended again by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §616(a), 110 Stat. 186, 362 (1996). This amendment provided that, in order to be entitled to continuous aviation career incentive pay through completion of 25 years of aviation service, an officer only had to perform operational flying duties for eight out of the first 12 years of aviation service, rather than meet the preexisting nine-year requirement.[51] Thus, under the program for aviation career incentive pay now in existence, an officer qualified for aviation service is entitled to continuous ACIP through completion of 25 years of aviation service with the performance of operational flying duties for eight of the first 12 and 12 of the first 18 years of aviation service, except that with the performance of operational flying duties for at least 10 but fewer than 12 of the first 18 years of aviation service, the officer is entitled to continuous ACIP for the first 22 years of aviation service.[52] Under the amended gate system, the

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[50] H.R. Rep. No. 101-331 (Committee of Conference), at 588, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

[51] See text accompanying footnotes 44 through 46 of this chapter, above.

[52] Neither the Senate Committee on Armed Services nor the House Committee on National Security identified any particular reason for reducing the required years of operational flying duties from nine out of the first 12 to eight out of the first 12 years of aviation service. See, e.g., H.R. Rep. No. 104-131 (Committee on National Security), at 231, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and S. Rep. No. 104-112 (Committee on Armed Services), at 255, accompanying S. 1026, 104th Cong., 1st sess. (1995); *cf.* H.R. Rep. No. 104-406 (Committee of Conference), at 816, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 806, accompanying S. 1124, 104th Cong., 2d sess. (1996).

Secretaries of the military departments are permitted, on a case by case, non-delegable[53] basis, to grant "waivers" to officers who have not met the operational flying duty requirements for their first 12 or 18 years of aviation service, so long as they have completed at least six years of operational flying duties while in aviation service. Officers who are granted "waivers" to the operational flying duty requirements set out in the gate system remain eligible to receive continuous monthly aviation career incentive pay. Officers who are not granted "waivers" are entitled to so-called "conditional" monthly aviation career incentive pay so long as they are required by competent orders to perform operational flying duties and meet certain minimum monthly flying requirements.

The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §612(a), 105 Stat. 1290, 1376 (1991), extended the "aviator retention bonus" from September 1, 1991, to September 1, 1992; the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §612(c), 106 Stat. 2315, 2421 (1992), also extended the program expiration date from September 30, 1992, to September 30, 1993; the National Defense Authorization Act for Fiscal Year 1994, Pub. L .No. 103-160, §613(a), 107 Stat. 1547, 1681 (1993), again extended the program expiration date, this time from September 30, 1993, to September 30, 1994; the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §613(a), 108 Stat. 2663, 2783 (1994), further extended the program expiration date from September 30, 1994, to September 30, 1995; and the National Defense Authorization Act for Fiscal Year 1996, Pub. L .No. 104-106, §613(a), 110 Stat. 186, 359 (1996), extended the program expiration date from September 30, 1995 to September 30, 1997.

The National Defense Authorization Acts for fiscal years 1997 and 1998 granted two more one-year extensions, through September 30, 1998, and September 30, 1999, respectively. The National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 2035 (1998), extended the program by only three months, through December 31, 1999, effectively moving the end date of the ensuing yearly extensions from the end of the fiscal year to the end of the calendar year. Each of the next five annual national defense authorization acts followed the pattern of renewing the aviation retention bonus for one year, through the end of the following calendar year. In each of those cases, apart from noting that the House and Senate Committees on Armed Services had respectively "recommended the extension," no particular reason was given for the action in question.[54] The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85,

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[53] See 37 U.S.C. §301a(a)(5), as amended by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §616(b), 110 Stat. 186, 362 (1996).

[54] With respect to the extension of the "aviator retention bonus" program from September 30, 1991, to September 30, 1992, made by the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §612(a), 105 Stat. 1290, 1376 (1991), see H.R. Rep. No. 102-60 (Committee on Armed Services), at 249, accompanying H.R. 2100; S. Rep. No. 102-113 (Committee on Armed Services), at 222–23, accompanying S. 1507; and H.R. Rep. No. 102- 311 (Committee of Conference), at 549, accompanying H.R. 2100, 102d Cong., 1st sess. (1991). With respect to the additional extension to September 30, 1993, made by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §612(c), 106 Stat. 2315, 2421 (1992), see H.R. Rep. No. 102-527 (Committee on Armed Services), at 243, accompanying H.R. 5006; S. Rep. No. 102-352 (Committee on Armed Services), at 208, accompanying S. 3114; and H.R. Rep. No. 102-966 (Committee of Conference), at 713, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). With respect to the further extension to September 30, 1994, made by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §613(a), 107 Stat. 1547, 1681 (1993), see H.R. Rep. No. 103-200 (Committee on Armed Services), at 294, accompanying H.R. 2401; S. Rep. 103-112 (Committee on Armed Services), at 152, accompanying S. 1298; and H.R. Rep. No. 103-357 (Committee of Conference), at 683, accompanying H.R. 2401, 103d Cong., 1st sess. (1993). With respect to the extension to September 30, 1995, made by the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §613(a), 108 Stat. 2663, 2783 (1994), see H.R. Rep. No. 103-499 (Committee on Armed Services), at 251–52, accompanying H.R. 4301; S. Rep. No. 103-282 (Committee on Armed Services), at 193–94, accompanying S. 2182; and H.R. Rep. No. 103-701 (Committee of Conference), at 713, accompanying S. 2182, 103d Cong., 2d sess. (1994). With respect to the program extension to September 30, 1997, made by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §613(a), 110 Stat. 186, 359 (1996), see H.R. Rep. No. 104-131 (Committee on National Security), at 231, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); S. Rep. No. 104-112 (Committee on Armed Services), at 254–55, accompanying S. 1026, 104th Cong., 1st sess. (1995); H.R. Rep. No. 104-406 (Committee of Conference), at 815, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); and H.R. Rep. No. 104-450 (Committee of Conference), at 805–6, accompanying S. 1124, 104th Cong., 2d sess. (1996).

111 Stat. 1770 (1997), began a two-year process of revising the pay table for the ACIP. That law established a new maximum level of $840 for the ACIP, to be paid to aviation officers with more than 14 and fewer than 22 years of service. That time of service became the last category designated in Phase I; Phase II now began with officers having more than 22 years of service rather than the previous 18. Thus, a large group of officers with an intermediate time of aviation service were rewarded with a significantly higher monthly ACIP for potentially an eight-year period, while the ACIP of all more junior and more senior aviation officers remained the same. Senior warrant officers, who until the 1999 legislation received ACIP according to the same service chart as officers, also were rewarded by the new rates. Unlike officers, whose ACIP declined from $840 to $585 when they reached 22 years of service, warrant officers continued to receive the top amount, regardless of length of service, once they exceeded 14 years. The ACIP reform was completed the following year by the National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 2040 (1998), which prescribed a single ACIP table for officers, eliminating the Phase I and Phase II designations and retaining the pay categories that had applied in Fiscal Year 1998. Authority to pay the Aviation Officer Retention Bonus was extended in one-year increments through December 31, 2016.[55] The Ike Skelton National Defense Authorization Act for Fiscal Year 2011 required DOD to review the use and management of special pay for aviation career officers, including payment to officers serving under pre-existing active-duty service obligation, and report to Congress by August 1, 2011.[56]

Aviation Career Incentive Pay for Reserves: Reserve forces personnel[57] entitled to compensation for inactive-duty training are entitled to aviation career incentive pay when they perform qualifying duties under competent orders. Under 37 U.S.C. §301a(d), members of the reserve forces who perform qualifying flight duties while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties, provided Congress has appropriated sufficient funds for making such payments.[58] [59] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying duty under 37 U.S.C. §301a(d), also entitled to 1/30th of the aviation career incentive pay that would be payable to a member of the active-duty force who was performing such duties. Under regulations prescribed

[55] National Defense Authorization Act for Fiscal Year 2016, Pub. L. 114-92, Title VI, Subtitle B, Sec. 615, 129 Stat. 726, 839 (2015).

[56] Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L .No. 111-383, Title VI, Sec. 652, 124 Stat. 4137, 4243 (2011).

[57] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[58] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[59] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

by the President, a member of a reserve force who performs flight duties under 37 U.S.C. §301a(d) while engaged in inactive-duty training is entitled to aviation career incentive pay.[60] [See *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD *70*00.14-R, ¶80312; *cf. id.*, ¶80311.]

Flight pay for reserve forces personnel generally, and aviation career incentive pay in particular, derives from the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926). Section 6 of the Air Corps Act amended Section 20 of the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §20, 42 Stat. 625, 632 (1922), to give "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled. The extension of this special increase in compensation to members of the National Guard came about as a result of a floor amendment to the House bill, H.R. 10827, 69th Cong., 1st sess. (1926), which established the Army Air Corps. In offering the amendment, Representative John Philip Hill of Alabama did not offer any particular justification for extending this pay to members of the National Guard. Rather, he simply noted that the bill had "the endorsement of the War Department, the Chief of the Air Service [the predecessor of the Air Corps] ... and the committee [on Military Affairs]."[61] Flight pay for inactive-duty training was extended to "officers and enlisted men of the Naval Reserve ... performing aerial flights in the capacity of pilots ... as a part of their training" by the Naval Reserve Act of 1938, ch. 290, Pub. L. No. 75-732, §313, 52 Stat. 1175, 1184 (1938). Members of the Marine Corps Reserve were covered by a separate provision that gave such members the same benefits as conferred on members of the Naval Reserve. [See Naval Reserve Act of 1938, ch. 290, *id*., §2, 52 Stat. 1175.] Insofar as personnel and compensation matters were concerned, the Naval Reserve Act had been patterned after the Army Air Corps Act, and as above noted, the Army Air Corps Act had extended flight-pay entitlements to "officers, warrant officers, and enlisted men of the National Guard." The Naval Reserve Act was, however, more restrictive than the Army Air Corps Act had been: an amendment to the bill provided that the increase in compensation would apply to "only those actually serving as pilots of aircraft,"[62] whereas the Army Air Corps Act had extended the special pay to any member of the National Guard "participat[ing] regularly and frequently in aerial flights," independently of the member's status as a pilot or otherwise.

The Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), substantially reorganized the provisions of preceding law relating to inactive-duty training pay for reserve forces personnel. Section 3 of the 1948 Act, *id*., 62 Stat. 88–89, amended Section 14 of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14, 56 Stat. 359, 367 (1942), to give "officers, warrant officers, and enlisted personnel" of all the reserve forces entitlement to special pay for "perform[ing] aerial flights," among other things. As stated in the House report:

> The purpose of the bill is to standardize inactive training pay for all Reserve components of the various services and also to grant such inactive duty training pay to Army Reservists.
>
> The major departure in the legislation is the giving of this pay to the Army Reserves, including enlisted men. Such pay has been granted by the Congress heretofore to members of the National Guard and the Naval and Marine Corps Reserves....
>
> The committee considers the need for this pay to be apparent, even though it is unfortunate that the country must resort to it. The Army and Navy must maintain active Reserve components, or else, in time of war emergency, the Nation will have to depend exclusively upon the Regular services for its defense. They are patently incapable of doing such a job alone. So, in order to vitalize the National Guard and Reserve components, to get more people to

[60] Reproduced at 37 U.S.C. §301 note.
[61] 67 Cong. Rec. 8765 (1926) (statement of Representative Hill).
[62] H.R. Rep. No. 2763 (Committee of Conference), at 3, accompanying H.R. 10594, 75th Cong., 3d sess. (1938).

> participate so that they will fit promptly and effectively into the mobilization-day plans of the Armed Forces, inactive duty pay is to be given each participant at the rate of one-thirtieth of 1 month's base and longevity pay for each training period.... Such specialists as pilots, radar technicians, medical people, and so forth, will also be able to earn inactive duty training pay when the standards specified by the Secretaries [of the various departments] are met.[63] [64]

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), restated the provisions of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, 56 Stat. 359 (1942), as amended by the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), insofar as the entitlement of reserve forces personnel to special pay for the performance of hazardous duties was concerned. Section 501 of the Career Compensation Act, ch. 681, *id*., §501, 63 Stat. 825–27, dealt generally with the entitlement of reserve forces personnel to compensation for inactive-duty training. Subsection (d) of Section 501, 63 Stat. 826, generalized the hazardous duty incentive pay entitlements of reserve forces personnel performing inactive-duty training by providing that hazardous duty incentive pay was available to such personnel whenever they were required by competent orders to perform any of the hazardous duties, set out at Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 810, for which active-duty personnel were entitled to hazardous duty incentive pay. The duties set out in Section 204(a) as qualifying for such pay included crew member and non-crew member flight duties,[65] submarine duties, glider duties, parachute jumping duties, leprosy duties, explosives demolition duties, duty at a submarine escape training tank, and duty with certain diving units. [See Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 809–10.][66] No special reason was given for this reorganization of the provisions of prior law dealing with inactive-duty training pays, including inactive-duty training incentive pays for hazardous duties. The extension of incentive pay for hazardous duty to new classes of reserve forces personnel—e.g., to reserve forces personnel in an inactive-duty training status performing parachute duties, explosives demolition duties, submarine escape training tank duties, etc.—appears to have derived from the extension of such pays to active-duty personnel, and not from any special concern about reserve forces personnel and whether they should be entitled to incentive

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[63] H.R. Rep. No. 80-971 (Committee on Armed Services), at 1–2, accompanying H.R. 3227, 80th Cong., 1st sess. (1947). See S. Rep. No. 80-625 (Committee on Armed Services), at 1, accompanying S. 1174, 80th Cong., 1st sess. (1947).

[64] Section 14(c) of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14(c), 56 Stat. 359, 367 (1942), as amended by Section 3 of the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat 87, 88–89 (1948), extended special pay to "personnel required to perform aerial flights, parachute jumping, glider flights, or submarine duty" in connection with inactive-duty training. As stated in S. Rep. No. 80-625 (Committee on Armed Services), at 2, accompanying S. 1174, 80th Cong., 1st sess. (1947): "Increases in pay authorized by law for flying, parachute jumping, submarine duty, etc., will be paid."

[65] At the time, both rated and non-rated personnel assigned to crew member duties were entitled to crew member flight pay. Aviation Career Incentive Pay derives from the crew member flight pay program. See Chapter II.D.1.b.(1), "Flight Pay (Crew Member)," above.

[66] The provisions for inactive-duty training pay contained in section 501 of the Career Compensation Act of 1949, ch. 681, *id*., 63 Stat. 825–27, were classified to 37 U.S.C. §301, whereas the provisions for hazardous duty incentive pay set out in Section 204 of the Career Compensation Act, ch. 681, *id*., 63 Stat. 809–10, were classified to 37 U.S.C. §235. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the provisions for inactive-duty training pay relating to entitlements of reserve forces personnel to hazardous duty incentive pay were codified at 37 U.S.C. §301, together with the provisions for hazardous duty incentive pay relating to active-duty personnel. When aviation career incentive pay was first authorized by the Aviation Career Incentive Act of 1974, Pub. L. No. 93-294, 88 Stat. 177 (1974), reserve forces personnel performing inactive-duty raining were covered under 37 U.S.C. §301a(d), in much the same fashion as they had been under the preceding program for crew member flight pay. See following paragraph to this chapter, below. The current structure of entitlements to hazardous duty incentive pay—including the present-day aviation career incentive pay (see preceding footnote to this chapter, above)—for reserve forces personnel performing inactive-duty training thus effectively derives from the organization imposed on Title 37 by the Act of September 7, 1962, Pub. L. No. 87-649, *id*.

pay for performance of various hazardous duties.[67] [See, e.g., chapters of this book dealing with explosives demolition duty pay and parachute duty pay.]

With adoption of the Aviation Career Incentive Act of 1974, Pub. L. No. 93-294, 88 Stat. 177 (1974), flight pay for rated personnel was effectively split off from crew member flight pay, and the aviation career incentive pay program came into being. At that time, the prior provisions of 37 U.S.C. §301(f), which governed the entitlements of reserve forces personnel to crew member flight pay, among other things, were effectively imported into the new 37 U.S.C. §301a(d), and members of the reserve forces entitled to compensation for inactive-duty training became entitled to aviation career incentive pay when performing qualifying duties under competent orders. As stated in the House report:

> The committee bill places Reserve-component and National Guard officers under the same aviation career incentive pay program as active duty officers, including the rate stepdowns and the 25-year termination.... The committee ... desire[s] to treat Reservists on an equal basis with active duty members whenever possible.[68]

Until 2003, the conditions of entitlement to non-crew member flight pay for both active-duty and reserve forces personnel were set out in Sections 103 and 104 of Executive Order 11157, as amended,[69] in various supplementary regulations adopted by the service Secretaries pursuant to Section 113 of Executive Order 11157, and the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R.[70] Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to aviation career pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments. Reserve forces personnel are not entitled to aviation officer career continuation pay under 37 U.S.C. §301b.

Under the amendments to aviation career incentive pay made by the National Defense Authorization Acts for Fiscal Years 1998 and 1999, Pub. L. No. 105-85 and Pub. L. No. 105-261, as of 2009 the following are the current ACIP rates for commissioned and warrant officers:

Years of Aviation Service (including Flight Training) as an Officer	**Monthly Rate in $**
2 or less	125
Over 2	156
Over 3	188
Over 4	206
Over 6	650
Over 14	840
Over 22	585
Over 23	495

[67] The Hook Commission, whose report led to the adoption of the Career Compensation Act of 1949, did not concern itself with reserve forces compensation in any way. See, e.g., "Terms of Reference," the charter given to the Hook Commission by the then Secretary of Defense, James Forrestal, as set out in *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, vii–viii.
[68] H.R. Rep. No. 93-799 (Committee on Armed Services), at 21, accompanying H.R. 12670, 93d Cong., 2d sess. (1974). See S. Rep. No. 93-841 (Committee on Armed Services), at 24, accompanying H.R. 12670, 93d Cong., 2d sess. (1974) (quotation the same except for a reference to "the same flight pay system" in place of "the same aviation career incentive pay system").
[69] Reproduced, as amended, at 37 U.S.C. §301 note.
[70] In particular, see *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶¶80312–80313.

Years of Aviation Service (including Flight Training) as an Officer	Monthly Rate in $
Over 24	385
Over 25	250

Note: Warrant officers with more than 22 years of service continue to receive the rate established for "over 14."

Note: ACIP for officers in pay grade 0-7 is limited to $200 per month and that for officers in pay grade 0-8 or above, to $206.

Cost: For the cost of aviation career incentive pay and aviation continuation pay through 2016, see tables II-12A–B, below.

Table II-12A. Aviation Career Incentive Pay (ACIP)/Aviation Incentive Pay (AvIP), 1974–2016

Fiscal Year	Total Personnel	Cost ($000)
1974	16,465	2,957
1975	93,936	211,280
1976	88,598	201,144
1977	83,881	195,333
1978	77,803	184,128
1979	73,400	174,414
1980	69,847	168,202
1981	70,175	204,487
1982	72,807	248,750
1983	78,744	267,384
1984	74,483	254,963
1985	74,532	256,504
1986	75,515	259,789
1987	74,798	260,882
1988	74,312	261,289
1989	74,334	262,320
1990	72,008	363,212
1991	73,048	380,977
1992	66,139	346,474
1993	63,090	328,722
1994	58,566	318,374
1995	55,063	303,028
1996	54,920	312,333
1997	52,449	304,586
1998	37,624	289,719
1999	37,380	334,483
2000	26,808	291,393
2001	47,820	284,924
2002	25,989	286,226
2003	39,684	298,914
2004	52,878	311,382

Fiscal Year	Total Personnel	Cost ($000)
2005	54,129	318,548
2006	50,500	303,792
2007	53,293	312,477
2008	51,044	293,424
2009	53,930	300,664
2010	56,675	326,664
2011	53,687	308,876
2012	53,561	316,771
2013	53,444	318,865
2014	64,276	313,972
2015	51,450	298,785
2016[1]	50,595	298,429

[1]Estimate

Table II-12B. Aviation Officer Continuation Pay (AOCP)/Aviation Bonus (AvB), 1981–2016

Fiscal Year	Total Personnel	Cost ($000)
1981	5,903	33,922
1982	8,495	51,137
1983	7,291	42,561
1984	7,476	43,247
1985	4,358	28,062
1986	1,865	12,727
1987	2,273	16,486
1988	1,764	12,868
1989	2,498	54,760
1990	2,861	71,629
1991	3,094	93,502
1992	3,443	101,282
1993	3,195	92,629
1994	2,223	76,369
1995	1,795	59,650
1996	1,615	60,166
1997	1,810	52,995
1998	1,532	52,903
1999	1,366	63,602
2000	4,642	63,788
2001	4,713	230,128
2002	1,382	279,902
2003	4,825	284,218
2004	5,774	299,666
2005	5,151	274,620
2006	5,280	238,434

2007	6,239	245,538
2008	5,802	227,822
2009	6,193	229,096
2010	5,313	199,151
2011	4,717	165,545
2012	3,775	137,173
2013	2,934	117,242
2014	2,793	104,287
2015	2,631	100,630
2016[1]	2,751	133,554

[1]Estimate

Note (ACP): The cost figures shown above include ACP costs for the Army, Navy, Air Force, and Marine Corps, but the personnel figures do not include Air Force officers.

Note 1 (ACP): Starting FY12, the Air Force renamed Aviator *Continuation* Pay to "Aviator *Retention* Pay"; and from FY13 to FY16, it does not include Flight Officers (only Pilots).

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

In 2008 Congress passed the National Defense Authorization Act for Fiscal Year 2008[71] consolidating more than 65 special and incentive pays and bonuses into eight general bonus authorities. The consolidation of legislative authorities is intended to simplify and reduce the costs of administering the special and incentive pays system while providing the services with greater flexibility to adjust compensation as required by circumstances. Under the consolidated pay authorities, monthly aviation incentive pay and aviation bonuses were consolidated under 37 U.S.C. §334.

In compliance with the transition to the congressionally-mandated consolidated pay authorities, the Department of Defense released DODI 7730.67, "Aviation Incentive Pays and Bonus Program," on October 20, 2016, which directed the military services to transition all aviation incentive pays and bonus programs to the new authority no later than October 1, 2017. Additionally, this issuance provided increased flexibility to the services and no longer mandated specific pay levels for the aviation incentive pay. Instead, caps were set at each level. In April 2017, the Assistant Secretary of Defense for Manpower and Reserve Affairs increased the aviation bonus cap from $25,000 per year to $35,000 per year, but also required the services to follow congressional direction to use a business-case analysis to determine the amounts of bonus required addressing anticipated manning shortfalls by aircraft-type category. In other words, no blanket bonus amount applied across all aviation platforms. Additionally, the memorandum reduced the number of aviation incentive pay categories and increased the monthly maximum amount authorized per category. However, the services had the ability to keep the existing incentive pay tables, or create new ones that were service-specific.

[71] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 661, 122 Stat. 3, 163 (2008).

The authorized aviation incentive pay table (as of April 26, 2017) for years of aviation service (YAS) is:

YAS	Maximum Monthly Amount
2 or less	$150
Over 2	$250
Over 6	$800
Over 10	$1,000
Over 22	$700
Over 24	$450

Chapter II.D.1.b.(4)
Hazardous Duty Incentive Pay for Air Weapons Controller Crew Members (AWACS Flight Pay)

Legislative Authority: 37 U.S.C. §301(a)(11) and (c)(2).

Purpose: To provide an additional incentive for military personnel to undertake service as air weapons controllers on airborne warning and control system aircraft, and to compensate such personnel for the more than normally dangerous character of such duty.

Background: Before enactment of the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–94 (1981), military officers assigned to duty as air weapons controllers on airborne warning and control system aircraft were, while actually performing such duty, eligible for non-crew member flight pay under the hazardous duty incentive pay provisions of 37 U.S.C. §301(a)(2) and (c). The rate of hazardous duty incentive pay for officers assigned to qualifying duty was a flat $110 per month, substantially less than the aviation career incentive pay rates applicable to officers with aeronautical ratings or designations under 37 U.S.C. §301a.[1] With the sharp increase in the number of airborne warning and control system aircraft—frequently referred to as "AWACS aircraft" or, more simply, as "AWACS"—in the military service of the United States beginning about 1975, and the concomitant increase in demand for personnel to staff such aircraft, the Air Force had noted a shortage in the supply of qualified air weapons controllers.[2]

In order to increase the number of officers volunteering for such duty, Congress, in the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–94 (1981), added a new category of service to the provisions for hazardous duty incentive pay in 37 U.S.C. §301—namely, duty "involving frequent and regular participation in aerial flight by an officer ... serving as an air weapons controller crew member ... aboard an airborne warning and control system aircraft...." To differentiate this pay from the non-crew member flight pay provisions also found in 37 U.S.C. §301, a new set of pay rates for air weapons control officers was provided in 37 U.S.C. §301(c)(2). Under the new provision, the monthly rate of pay for a particular officer in a designated air weapons control billet depended on that officer's cumulative years of service in such duty.[3] Personnel specifically excluded from eligibility for the new pay included officers entitled to aviation career incentive pay under 37 U.S.C. §301a as well as warrant officers and enlisted personnel. See 37 U.S.C. §301(a)(11) as in effect before enactment of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §615, 110 Stat. 186, 361–62 (1996), which broadened the program by specifically including warrant officers and enlisted members within the category of personnel

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[1] Enlisted personnel assigned to non-crew member duties on air weapons control aircraft were entitled to $55 a month in hazardous duty incentive pay.

[2] In House debate on the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–94 (1981), for instance, it was pointed out that the Air Force had had five AWACS aircraft in 1977, 24 in 1981, and would have 33 by 1985, with a corresponding increase in the number of air weapons control officers needed to man such aircraft from 27 in 1976 to "about 1,000 in the mid-eighties." See 127 Cong. Rec. 20638 (1981) (127 Cong. Rec. H6325 (daily ed. September 15, 1981)) (remarks of Representative Skelton).

[3] For the purpose of computing specific entitlements under the air weapons controllers provisions in question, an individual officer was to be credited with all service as an air weapons control officer after the date of beginning training leading to qualification for such service except for periods exceeding 90 days in duration when the officer's primary duties are other than those of such an officer. See 37 U.S.C. §301(c)(2)(B) and the table set out at 37 U.S.C. §301(c)(2)(A) as in effect before enactment of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §615, 110 Stat. 186, 361–62 (1996). As noted in the House–Senate Conference Report, all time qualifying as "weapons controller experience," whether "gained in ground duties or as an air weapons controller crew member," counted for the purpose of determining the amount of air weapons controller pay to which any specific officer is entitled. See H.R. Rep. No. 97-265 (Committee of Conference), at 22, accompanying S. 1181, 97th Cong., 1st sess. (1981).

entitled to the special pay.[4] The monthly rates of hazardous duty incentive pay for officers assigned to duty as air weapons controllers initially adopted in the Uniformed Services Pay Act of 1981, Pub. L .No. 97-60, *id*., were:

Pay Grade	**Years of Service as an Air Weapons Controller**						
	2 or less	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**
O-7 and above	$200	$200	$200	$200	$200	$200	$200
O-6	225	250	300	325	350	350	350
O-5	200	250	300	325	350	350	350
O-4	175	225	275	300	350	350	350
O-3	125	156	188	206	350	350	350
O-2	125	156	188	206	250	300	300
O-1	125	156	188	206	250	250	250

Pay Grade	**Years of Service as an Air Weapons Controller**							
	Over 12	**Over 14**	**Over 16**	**Over 18**	**Over 20**	**Over 22**	**Over 24**	**Over 25**
O-7 and above	$200	$200	$200	$200	$200	$200	$200	$110
O-6	350	350	350	350	300	250	250	225
O-5	350	350	350	350	300	250	250	225
O-4	350	350	350	350	300	250	250	225
O-3	350	350	350	300	275	250	225	200
O-2	300	300	300	275	245	210	200	180
O-1	250	250	250	245	210	200	180	150

In adopting the provisions in question, Congress noted, among other things, the nature of the duty involved:

> ... One of the major reasons for the shortage of volunteers is the nature of AWACS duty. AWACS duty is arduous and perceived by weapons controllers as having few rewards.... [Recent] deployments [of AWACS aircraft to various locations around the world] translated to lengthy periods of family separation.... In the troubled decade ahead, we can expect our worldwide AWACS commitment to expand, thereby exacerbating the weapons controller manning problem.[5]

Congress went on to note, however:

> The major reason for the shortage of volunteers ... is the great disparity between the flight pay paid to pilots and that paid to weapons controllers. This is a major disincentive....
>
> Mr. Chairman, we are on the horns of a dilemma. On the one hand, we have the AWACS, the most sophisticated surveillance aircraft in the world; a proven system which, through its many deployments since 1977, has proven to be an invaluable instrument of national policy. On the other hand, we are failing to attract and retain the very people who can insure the AWACS remains an effective instrument of national policy. It is time to

[4] With respect to the changes to the special pay program for air weapons controllers effected by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §615, 110 Stat. 186, 361–62 (1996), see footnotes 10 to 14 to this chapter, together with accompanying text, below.

[5] 127 Cong. Rec. (1981) (127 Cong. Rec. H6326 (daily ed. September 15, 1981)) (remarks of Representative Skelton).

> address this problem and enhance hazardous duty incentive pay is the optimum vehicle [sic].[6]

Congress also cited the effects of inflation in reducing the incentive value of the hazardous duty incentive pay—i.e., non-crew member flight pay under 37 U.S.C. §301(a)(2)—that was the only incentive pay to which air weapons controllers were, before the 1981 Pay Act, entitled:

> The existing hazardous duty incentive pay rate dates from 1955, since then, [sic] the Consumer Price Index has tripled. Moreover, in 1955 the hazardous duty incentive pay of a captain exceeded 25 percent of his basic pay; today, his incentive pay is less than 6 percent of basic pay.[7]

In light of the manning problems noted and the perceived causes, Congress concluded that a separate pay for air weapons controllers was warranted:

> Today's hazardous duty incentive pay simply is not enough to attract and keep the people we need to overcome the hardships all aircrew members endure—the irregular schedules, long periods of no-notice family separation, and the hazards involved in flying close to international trouble spots.[8]

The provisions for hazardous duty incentive pay in the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, 95 Stat. 989, 992–94 (1981), became effective October 1, 1981.[9] The pay rates established by that law for air weapons controllers remained in effect into 1997. The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1786 (1997), raised the pay rates for certain enlisted, warrant officer, and officer air weapons controllers. In all three categories, the measure provided individuals with less than two years of service in the specialty (those with the smallest monthly allotments) with raises ranging from $25 to $50 per month. Individuals of higher rank or longer experience were not affected by the change.

Whereas the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., specifically provided that only commissioned officers were entitled to AWACS flight duty pay,[10] the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §615, 110 Stat. 186, 361–62 (1996), broadened the program by specifically including warrant officers and enlisted members within the category of personnel entitled to the special pay. As explained by the Senate Armed Services Committee:

> The committee recommends a provision that would authorize special hazardous duty incentive pay for enlisted members serving as air weapons controllers aboard airborne warning and control systems. The Air Force is converting officer air weapons controller positions to enlisted billets. This provision permits the enlisted air weapons controllers to receive hazardous duty incentive pay on the same basis as their officer counterparts.[11] [12]

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[6] 127 Cong. Rec. (1981) (127 Cong. Rec. H6326 (daily ed. September 15, 1981)) (remarks of Representative Skelton).
[7] 127 Cong. Rec. 20638 (1981) (127 Cong. Rec. H6326 (daily ed. September 15, 1981)) (remarks of Representative Skelton).
[8] 127 Cong. Rec. 20638 (1981) (127 Cong. Rec. H6326 (daily ed. September 15, 1981)) (remarks of Representative Skelton).
[9] Section 111(d) of the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(d), 95 Stat. 989, 994 (1981). See 37 U.S.C. §301 note.
[10] See 37 U.S.C. §301(a)(11) as in effect before passage of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §615, 110 Stat. 186, 361–62 (1996).
[11] S. Rep. No. 104-112 (Committee on Armed Services), at 255, accompanying S. 1026, 104th Cong., 1st sess. (1996); *cf.* H.R. Rep. No. 104-406 (Committee of Conference), at 816, accompanying H.R. 1530, 104th Cong., 1st sess. (1996), and H.R. Rep. No. 104-450 (Committee of Conference), at 806, accompanying S. 1124, 104th Cong., 2d sess. (1996).
[12] As originally proposed, warrant officers were not included within the category of persons to whom AWACS flight pay entitlement was extended. This is perhaps explained by the fact that the Air Force does not have any warrant

The current rates of hazardous duty incentive pay for air weapons controller crew members, covering commissioned officers, warrant officers,[13] and enlisted personnel, are set out before the cost figures at the end of this chapter.[14]

Reserve forces personnel[15] entitled to compensation for inactive-duty training are technically entitled to hazardous duty incentive pay for air weapons controller crew members when they perform AWACS flight duties under competent orders, provided Congress has appropriated sufficient funds for that purpose.[16] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying flight duties while entitled to compensation under 37 U.S.C. §206 are also technically entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[17] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying AWACS flight duties under 37 U.S.C. §301(f), also entitled to 1/30th of the AWACS hazardous duty incentive pay for air weapons controller crew members that would be payable to a member of the active-duty force who was performing such duty.

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officers, and the Air Force is currently the only service that has personnel assigned to AWACS flight duties. In any event, as ultimately amended by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §615, *id*., the AWACS flight pay program extends entitlement to almost all—see the following parenthetical—grades of military personnel who could theoretically be assigned to AWACS duties. (The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §1111(a), 105 Stat. 1290, 1491–1492 (1991), established a new warrant officer pay grade, "Chief Warrant Officer, W-5". Possibly due to simple oversight, chief warrant officers in that new pay grade were not included within the category of persons entitled to receive AWACS flight pay if assigned to qualifying duties—or, perhaps more accurately, no special rates of AWACS pay were established for persons in that pay grade.)

[13] But see the parenthetical to footnote 12, immediately above.

[14] The rules for computing the specific amount of AWACS flight duty pay to which any given member is entitled are essentially the same for commissioned officers, warrant offices, and enlisted members as they were under the AWACS flight-pay program in effect before enactment of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §615, 110 Stat. 186, 361–62 (1996). For a statement of these rules, see footnote 3 to this chapter, above.

[15] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[16] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[17] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

As a practical matter, it is doubtful whether any reserve forces personnel participating in inactive-duty training would ever qualify for the hazardous duty incentive pay for air weapons controller crew members. Entitlement to this special pay is premised on "frequent and regular participation in aerial flight by an officer ... who is serving as an air weapons controller crew member ... aboard an airborne warning and control system aircraft," and it is doubtful that reserve forces personnel participating in inactive-duty training have access to such aircraft. Thus, while technically entitled to hazardous duty incentive pay for performing AWACS flight duties under 37 U.S.C. §301, reserve forces personnel would appear to never have actually received this pay.[18]

Technical authority to extend hazardous duty incentive pay for air weapons controller crew members to reserve forces personnel engaged in inactive-duty training can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive-duty reserve forces personnel engaged in hazardous duties of one kind or another.[19] In fact, however, hazardous duty incentive pay for AWACS flight duties was not covered by the Army Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled.[20] The first special provision that authorized AWACS flight pay for reserve forces personnel performing inactive-duty training came, as above indicated, in the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–94 (1981), which brought AWACS flight duties within the category of duties for which hazardous duty incentive pay was technically authorized.

Historically, the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–94 (1981), had been intended to extend entitlements to AWACS flight pay to active-duty personnel performing qualifying duties. The entitlements technically covered reserve forces personnel also because of the way Title 37 of the United States Code was organized. At the time, 37 U.S.C. §301(f) provided that a member of the reserve forces on inactive-duty training was entitled to additional pay for hazardous duty when the member "performs, under orders, any duty described in subsection (a) of this section." Subsection (a), in turn, covered hazardous duty incentive pay entitlements of active-duty personnel, and it was to that subsection that the AWACS flight-pay entitlements were added. The Uniformed Services Pay Act of 1981, Pub. L .No. 97-60, *id*., had simply added a new category of duty for which hazardous duty incentive pay was authorized for active-duty personnel as well under 37 U.S.C. §301(f). Thus, reserve forces personnel on inactive-duty training had in effect "piggybacked" on active-duty personnel insofar as technical entitlement to AWACS flight pay was concerned. [See discussion of the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–94 (1981), above.]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §647, 99 Stat. 583, 655 (1985), amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

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[18] Indeed, applicable regulations do not make provision of any sort for reserve forces personnel to receive hazardous duty incentive pay for AWACS duties. See, e.g., *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶¶80311–80316, generally (dealing with entitlements of reserve forces personnel participating in inactive-duty training to hazardous duty incentive pay).

[19] For a more complete discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training generally, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)," above.

[20] Subsequent enactments extended both the categories of duties for which, and the categories of personnel to whom, hazardous duty incentive pay was available for inactive-duty training. See Chapter II.D.1.b.(1) hereof, "Flight Duty (Crew Member)," for a more complete discussion of the history of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training.

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hours resources.
>
> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP for flying be permitted to credit active duty or inactive duty training flight time to fulfill active or inactive duty flight time requirements.[21]

Although the concern that led to the amendment in issue was the appropriate use and apportionment of flying time in general, the amendment to 37 U.S.C. §301(f) was stated in broader terms, so that it applied to any of the hazardous duties set out in 37 U.S.C. §301(a), including AWACS flight duties. Thus, for any month in which a member of a reserve force is involved both in active-duty and inactive-duty training for which the member is entitled to hazardous duty incentive pay under 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on the combined entitlement for both active-duty and inactive-duty training.

Current rates of hazardous duty incentive pay for air weapons controller crew members (AWACS flight pay): The current rates for this pay, effective February 18, 1997, are as follows:

Pay Grade	**Years of Service as an Air Weapons Controller**						
	2 or less	**Over 2**	**Over 3**	**Over 4**	**Over 6**	**Over 8**	**Over 10**
O-7 and above	$200	$200	$200	$200	$200	$200	$200
O-6	225	250	300	325	350	350	350
O-5	200	250	300	325	350	350	350
O-4	175	225	275	300	350	350	350
O-3	150	156	188	206	350	350	350
O-2	150	156	188	206	250	300	300
O-1	150	156	188	206	250	250	250
W-4	200	225	275	300	325	325	325
W-3	175	225	275	300	325	325	325
W-2	150	200	250	275	325	325	325
W-1	150	150	150	175	325	325	325
E-9	200	225	250	275	300	300	300
E-8	200	225	250	275	300	300	300
E-7	175	200	225	250	275	275	275
E-6	156	175	200	225	250	250	250
E-5	150	156	175	188	200	200	200
E-4 and below	150	156	175	188	200	200	200

[21] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).

Pay Grade	Years of Service as an Air Weapons Controller							
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 25
O-7 and above	$200	$200	$200	$200	$200	$200	$200	$150
O-6	350	350	350	350	300	250	250	225
O-5	350	350	350	350	300	250	250	225
O-4	350	350	350	350	300	250	250	225
O-3	350	350	350	300	275	250	225	200
O-2	300	300	300	275	245	210	200	180
O-1	250	250	250	245	210	200	180	150
W-4	325	325	325	325	276	250	225	200
W-3	325	325	325	325	325	250	225	200
W-2	325	325	325	325	275	250	225	200
W-1	325	325	325	325	275	250	225	200
E-9	300	300	300	300	275	230	200	200
E-8	300	300	300	300	265	230	200	200
E-7	300	300	300	300	265	230	200	200
E-6	300	300	300	300	265	230	200	200
E-5	250	250	250	250	225	200	175	150
E-4 and below	200	200	200	200	175	150	150	150

Cost: For the cost of AWACS (air weapons controller) flight pay from 1982 to 1995, see table II-13, below.

Table II-13. AWACS Flight Pay (Air Weapons Controllers), 1982–1995

Fiscal Year	Officers	Cost ($000)
1982	460	$1,325
1983	530	1,526
1984	664	1,912
1985	751	1,802
1986	775	1,860
1987	1,010	2,424
1988	750	2,349
1989	742	2,324
1990	533	1,680
1991	711	2,329
1992	701	2,360
1993	621	2,101
1994	619	2,095
1995	578	1,956

Note: The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §615, 110 Stat. 186, 361–62 (1996), extended entitlement to AWACS flight pay to enlisted personnel and warrant officers performing qualifying duties.

Chapter II.D.2.a.
Parachute Duty Pay

Legislative Authority: 37 U.S.C. §301(a)(3) and (c)(1).

Purpose: To provide an additional pay to increase the ability of the uniformed services to attract and retain volunteers for parachute duty, and to compensate for the more than normally dangerous character of such duty.

Background: Parachute duty pay of $100 a month for officers and $50 for enlisted personnel was first authorized by the Act of June 3, 1941, ch. 166, Pub, L. No. 77-98, 55 Stat. 240 (1941), about nine months after the U.S. Army formed its first parachute unit. In adopting these rates of pay, Congress attempted to make a precise calculation of the additional compensation necessary to offset the especially hazardous nature of flying and parachuting, both of which were involved in parachute duty. At the time, i.e., 1941, flight pay was 50 percent of base and longevity pay. Thus, a second lieutenant with less than five years of service would be entitled to annual flight pay of $750, with progressively higher pay upon advancement in grade or movement into a new longevity step. This basic $750 a year was said to represent compensation for the "direct hazard of flying which is the same for all,"[1] and any flight pay above that level was said to represent compensation for the "career hazard which involves a cumulative stress and strain over a period of years." As to parachute troops, it was remarked that "it is obvious that these personnel incur greater risks than do those who fly either as passengers or pilots of military aircraft, for in addition to the hazard of injury or death due to a crash of the airplane there is the constant and continuous risk of the parachute jump which must be made as a routine operation not required of other flying personnel." On this reasoning, Congress concluded that parachute officers should receive the $750 "direct hazard" part of flight pay for their flying risk plus a "reasonable amount"—$500 a year—for their jumping risk. The combined annual total of $1,250 was rounded to $1,200, and the officer parachute duty rate was thus set at $100 per month. The "career hazard" part of flight pay was not included in the parachute duty calculation because "it will be necessary to change the personnel of these units frequently in order to meet the requirements for young and vigorous men."

The "pure hazard" theory under which rates for officer parachute duty pay were set would appear to be applicable to enlisted parachute personnel as well, since enlisted parachutists were subject to exactly the same flying and jumping risks as their officer counterparts. However, a different, "properly compensated" standard was applied in determining parachute duty pay rates for enlisted personnel. Under this standard, the enlisted pay rate for parachute duty was set at one-half the officer rate. The Senate Military Affairs Committee explained:

> Your committee, after careful consideration, is of the opinion that enlisted men engaged on parachute duty incur risks which other troops are not subject to and therefore should be properly compensated, and believe that the minimum additional pay for such duty should not be less than $50 per month.[2]

In 1948, at the request of the then Secretary of Defense, the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission, conducted the first comprehensive study of the military pay system since 1908. In reviewing military compensation generally, and parachute duty pay in particular, the commission concluded that, although special pays such as parachute duty pay had been designed in part to compensate for arduous and hazardous duties, their main purpose was to fill a supply–demand function—namely, to induce personnel to enter upon and remain in hazardous military occupations:

> The Commission, after reviewing previous studies, hearing presentations by the Services, and personally observing representative operational and training activities, is of the

[1] All quotations in this paragraph are from S. Rep. No. 259 (Committee on Military Affairs), at 2, accompanying S. 1063, 77th Cong., 1st sess. (1941) (letter of Henry L. Stimson, Secretary of War, to Senator Morris Sheppard, Chairman, Senate Committee on Military Affairs).

[2] S. Rep. No. 259 (Committee on Military Affairs), at 1, accompanying S. 1063, 77th Cong., 1st sess. (1941).

> unanimous opinion that some additional pay should be awarded to individuals who, on a voluntary basis, carry out peacetime functions involving more than the ordinary military risk and danger....
>
> Close examination of the nature of hazardous duty and the expressed or implied reasons for accepting risks indicated that the incentive to engage and remain in hazardous occupations provided a more realistic and practical basis for determining the rates of special pay than the theory of recompense for shorter career expectancy. The recompense or replacement concept, although promoted for many years as the sole argument for hazard pay, was found wanting for several reasons....[3]

The Hook Commission also recommended higher parachute duty pay rates for officers than for enlisted personnel:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.
>
> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.
>
> (3) Officers are usually given greater special responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.[4] [5]

The Hook Commission's reasoning and recommendations led to the introduction and enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949),[6] which ratified the previously existing parachute duty pay rates of $100 a month for officers and $50 a month for enlisted personnel.[7] [8] These rates were raised 10 percent to $110 per month for officers and $55 per month for enlisted personnel by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(6), 69 Stat. 18, 21 (1955), and remained at that level until October 1, 1981, when the rates for enlisted personnel were raised a further 50 percent, to $83 per month, by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(c), 95 Stat. 989, 992–93 (1981). As explained in the relevant congressional report, rates for hazardous duty incentive pay

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[3] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 24.

[4] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[5] For a short discussion of the treatment accorded hazardous duty incentive pays under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), see H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, and S. Rep. No. 81-733 (Committee on Armed Services), at 18, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[6] See, e.g., H.R. Rep. No. 81-779 (Committee on Armed Services), at 2, and S. Rep. No. 81-733 (Committee on Armed Services), at 1–2, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[7] See H.R. Rep. No. 81-779 (Committee on Armed Services), at 30, and S. Rep. No. 81-733 (Committee on Armed Services), at 18, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[8] After enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), the hazardous duty incentive pay provisions thereof, including parachute duty pay, were in the main classified to 37 U.S.C. §235. See 37 U.S.C. §235(a)(1) and (b) (1952) . Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the hazardous duty pay provisions, including the parachute duty pay provisions here in issue, were codified at 37 U.S.C. §301.

for enlisted personnel were increased in 1981 in recognition of the fact that they had "not been adjusted in more than 20 years, and this increase is needed to enhance the incentive value of this pay."[9]

In 1985 two additional changes were made to the provisions for parachute duty pay in 37 U.S.C. §301 by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 99 Stat. 583, 648 (1985). First, rates for hazardous duty incentive pay for enlisted personnel involved in parachute duties, as well as for a number of other duty categories denominated as hazardous for the purposes of 37 U.S.C. §301(a), were further increased to $110 per month, thereby eliminating the preexisting pay differential between officers and enlisted personnel. Second, a separate, higher rate for parachute duty pay was established for both officers and enlisted personnel engaged in duty an "essential part" of which involves "parachute jumping at a high altitude with a low opening"—so-called "HALO" parachute-jumping duties. The rate of pay for HALO duties was set at $165 per month for both officers and enlisted personnel.

The first change, increasing minimum rates of parachute duty pay for enlisted personnel to $110 per month, was effected by an amendment to 37 U.S.C. §301(c)(1) that did away with any distinction between officers and enlisted personnel for the vast majority of duties qualifying for hazardous duty incentive pay. The second change was effected by an additional amendment to 37 U.S.C. §301(c)(1) that added a specific proviso concerning HALO duties. Prior to amendment by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., 37 U.S.C. §301(c)(1) read as follows:

> For the performance of the hazardous duty described in [various clauses of subsection (a) of 37 U.S.C. §301, including parachute jumping duty], an officer is entitled to $110 a month and an enlisted member is entitled to $83 a month.

After amendment by the 1986 Authorization Act, 37 U.S.C. §301 (c)(1) reads as follows:

> For the performance of hazardous duty described in [the same clauses set out above, including parachute jumping duty], a member is entitled to $110 a month. However, a member performing hazardous duty [involving parachute jumping] who also performs as an essential part of such duty parachute jumping at a high altitude with a low opening is entitled to $165 a month.[10]

Thus, under 37 U.S.C. §301, all members engaged in parachute duties, both officers and enlisted personnel,[11] were entitled either to $110 per month for the performance of "regular," or "basic," parachute-jumping duties or to $165 per month for HALO duties.

The legislative history of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., does not per se indicate the reason for doing away with the differential in hazardous duty incentive pay for officers and enlisted personnel, whether for parachute jumping or other hazardous duties, nor does it indicate why a higher rate of hazardous duty incentive pay was authorized for HALO parachute-jumping duties, primarily because no report was ever submitted on the Senate bill, S. 1160, in which the two changes in issue were proposed.[12] In fact, however, the first change, i.e., the proposal to equalize officer and enlisted rates of

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[9] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[10] The increase in hazardous duty incentive pay rates for enlisted personnel engaged in parachute-jumping duties became effective October 1, 1985, as did the HALO provisions. Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(b), 99 Stat. 583, 648 (1985).

[11] The term "member" is defined in 37 U.S.C. §101(23) to mean "a person appointed or enlisted in, or conscripted into, a uniformed service." As such, "member" includes both officers and enlisted personnel.

[12] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

pay for various hazardous duties, including "basic"—i.e., non-HALO—parachute jumping duties, had been made the preceding year in connection with the consideration of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984). At that time, the Senate Committee on Armed Services, reporting out S. 2723, 98th Cong., 2d sess. (1984), had included a provision that would, among other things, have equalized officer and enlisted rates of hazardous duty incentive pay for "basic" parachute jumping duties.[13] In support of its recommendation, the committee stated:

> The committee proposes that the enlisted and officer rates for several hazardous duty incentive pays be equalized....
>
> The *Fifth Quadrennial Review of Military Compensation* (QRMC) examined special and incentive pays in great detail. One of its conclusions was that the differential between enlisted and officer rates for seven hazardous duty incentive pays [including parachute duty pay] should be eliminated....
>
> The committee agrees that enlisted and officer personnel should be paid the same incentive for exposing themselves to similar hazards. Therefore, it recommends that the rates for these seven hazardous duty pays be changed to entitle both enlisted and officer personnel to $110 per month.[14]

The Senate proposal was eliminated in conference.[15]

As indicated immediately above, the Senate's 1984 proposal to equalize officer and enlisted hazardous duty incentive pay rates for parachute-jumping duties, the substance of which was adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., closely parallels recommendations advanced by the Fifth Quadrennial Review of Military Compensation.[16] The same is true of the proposal to increase the rate

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... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.

When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....

Most of the Senate Report 99-41 continues to be applicable to this bill....

131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....

... In addition, the Committee recommended increases or enhancements to a number of special and incentive pays....

The special and incentive pays ... involved in these recommendations include:

g. Hazardous duty pays.

Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither S. Rep. No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the hazardous duty incentive pay program in general, or to the parachute duty pay program in particular, that were contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

[13] See section 148 of S. 2723, 98th Cong., 2d sess. (1984).

[14] S. Rep. No. 98-500 (Committee on Armed Services), at 210 (discussing section 148 of the Senate bill), accompanying S. 2723, 98th Cong., 2d sess. (1984).

[15] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[16] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing

of parachute duty pay for HALO jumps. In support of its recommendation to "[i]ncrease enlisted Parachute Duty Pay rates to $110 per month, eliminating officer and enlisted rate differentials,"[17] the Fifth Quadrennial Review concluded:

> An appropriate amount for performing basic parachute duty is $110 per month. This rate should be the same for officer and enlisted jump personnel, since they are exposed to the same risks.[18]

In support of its recommendations to "[a]dd a provision to 37 USC 301 to Compensate HALO jumpers at a level equal to basic Parachute Duty Pay plus 50%,"[19] the Fifth Quadrennial Review stated:

> HALO jumpers are exposed to significantly increased risks and should receive compensation equal to regular jump pay plus 50%.[20]

In reaching these conclusions, the Fifth Quadrennial Review noted:

> ... The purpose of Parachute Duty Pay is twofold: to provide an incentive to participate in parachute jumping, and to compensate somewhat for the actual risk involved in jumping.
>
> Current rates for Parachute Duty Pay are $110 and $83 per month for officers and enlisted personnel, respectively.... During field interviews, both officers and enlisted personnel indicated that they volunteered for other than monetary reasons. Most believe that the value of the payment has diminished to the point that it is inadequate compensation for the hazards they encounter in jump status. The pay is viewed as a reward for risk and has no measurable effect on their decisions to volunteer for or remain in jump status.
>
> Since the hazards are the same for both officer and enlisted jumpers, it is appropriate to establish a single basic rate for Parachute Duty Pay. This same rate would apply to Novices, Senior and Master jumpers (Army badge categories) since it cannot be demonstrated that the hazard of jumping increases with higher jump rating with one exception, HALO jumpers. The establishment of a higher pay rate for these free -fall jumpers would more adequately remunerate personnel who assume the extra risk of HALO duties....
>
> Since a hazard rate should be the same for officers and enlisted personnel, the enlisted rate should be increased to $110 per month. Furthermore, while it is recognized that HALO jumpers assume greater risks, it is difficult to gauge the degree of these added dangers to arrive at an appropriate amount. We believe, however, that a reasonable amount of compensation for

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such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations … proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001.

[17] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 184. Also see *id*., 9; and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-6.

[18] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 200. Also see *id*., 10; c*f*., *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-6.

[19] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 184. Also see *id*., 9; and *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-6.

[20] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 184. Also see *id*., 9; and *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-6.

> taking on risks significantly greater than the basic parachutist is an additional 50% of the regular rate, *i.e.*, $165.[21]

In further comment on officer–enlisted differentials for various hazardous duty incentive pays, including parachute duties, both "regular," or "basic," and HALO, the Fifth Quadrennial Review stated:

> During the process of reviewing the various Hazardous Duty Incentive Pays, it became increasingly clear that, although there is some incentive associated with certain pays, the primary purpose is recognition for the hazards or risks involved. It was, therefore, believed that officer/enlisted personnel should receive the same level of payment for seven of the Hazardous Duty Incentive Pays: [including] parachute [duty pay]....[22]

In arriving at this conclusion, the Fifth Quadrennial Review implicitly rejected the conclusions reached by the Hook Commission in 1949.[2323] In commenting on various arguments that had been advanced in favor of and against continuation of officer–enlisted differentials for hazardous duty incentive pays in general, the Fifth Quadrennial Review summarized the argument against the Hook Commission's position in the following terms:

> The Hook Commission rationale was based primarily on an examination of the needs of the aviation and submarine communities. Times have changed and those communities now have their own separate career incentive pays and bonuses.[24]

Other arguments in favor of eliminating the differential were summarized as follows:

* All personnel, officer and enlisted, experience the same hazards.

* One can never really compensate for risk of life, no matter the level.

* Basic pay and bonuses are adequate to cover any differential.

* Most hazard-related pays now cover skills that are not necessarily career oriented (across all Services); hence, a differential is not necessary for purposes of retention. However, exceptions may occur and should be individually addressed, as required.

* [F]ield interviews [conducted by the *Fifth Quadrennial Review of Military Compensation*] with both officer and enlisted personnel indicate "same rate for same risk" is perceived as equitable in the hazardous duty areas.[25]

Whether because of the recommendations of the Fifth Quadrennial Review or for some other reasons, Congress, in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., did eliminate officer–enlisted pay differentials for parachute duties generally and also established a new, and higher, entitlement to hazardous duty incentive pay for high-altitude-low-opening, or HALO, parachute duties.

The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §614, 105 Stat. 1290, 1377 (1991), modified the provisions relating to the higher rate of parachute duty pay authorized for members involved in HALO operations. Under the 1992/1993 Authorization Act, *id*., §614, 105 Stat. 1377, the description of the type of parachute duties for which the higher rate of pay was authorized was expanded from "parachute jumping at a high altitude with a low opening" to include all "parachute jumping in military

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[21] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 182.

[22] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 919. Also see *id*., 36–37.

[23] See discussion of Hook Commission recommendations concerning officer–enlisted differentials at text accompanying footnote 4 to this chapter, above.

[24] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 920; *cf. id*., 37.

[25] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 919–20.

free fall operations involving parachute deployment by the jumper without the use of a static line." In support of the modification, the Senate Armed Services Committee noted:

> The committee recommends a provision ... that would expand current authority ... which provides for a monthly hazardous duty pay of $165 per month to high altitude/low opening parachute jumps to include all free fall operations involving jumper deployed parachute openings.[26]

The National Defense Authorization act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1787 (1997), raised the special pay for all the categories of hazardous duty covered in 37 U.S. Code §301(c)(1), for all personnel engaged in those activities. Accordingly, the measure increased the monthly pay for standard parachute duty from $110 to $150 and for HALO duty from $165 to $225.

Reserve forces personnel[27] entitled to compensation for inactive-duty training are entitled to parachute duty pay when they perform qualifying duties under competent orders, provided Congress has appropriated sufficient funds for that purpose.[28] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying parachute-jumping duties while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active duty personnel performing such duties.[29] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, he is, if he is performing qualifying duty under 37 U.S.C. §301(f), also entitled to 1/30th of the parachute duty pay, including both regular parachute duty pay and HALO pay, that would be payable to a member of the active-duty force who was performing such duties. Under regulations prescribed by the President, a member of a reserve force who performs parachute jumping duties under 37 U.S.C. §301(f) while engaged in inactive-duty training is entitled to parachute duty pay.[30]

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[26] S. Rep. No. 102-113 (Committee on Armed Services), at 222, accompanying S. 1507, 102d Cong., 1st sess. (1991); *cf* H. R. Rep. No. 102-311 (Committee of Conference), at 549–50, accompanying H.R. 2100, 102d Cong., 1st sess. (1991). See 37 U.S.C. §301(c)(1) as modified by the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §614, 105 Stat. 1290, 1377 (1991).

[27] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[28] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, parachute jumping, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for parachute jumping are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[29] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[30] See Executive Order 11157, Section 108(d), as amended (reproduced, as amended, at 37 U.S.C. §301 note). Also see *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶80315.

Hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive-duty reserve forces personnel engaged in hazardous duties of one kind or another.[31] In fact, however, parachute-jumping duties were not covered by the Army Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled. The first special provision for parachute duty pay for reserve forces personnel engaged in inactive-duty training came in the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat. 87, 88 (1948), which gave "officers, warrant officers, and enlisted personnel" of all the reserve forces entitlement to special pay for "perform[ing] ... parachute jumping," among other things. As stated in the House report:

> The purpose of the bill is to standardize inactive training pay for all Reserve components of the various services and also to grant such inactive duty training pay to Army Reservists.
>
> The major departure in the legislation is the giving of this pay to the Army Reserves, including enlisted men. Such pay has been granted by the Congress heretofore to members of the National Guard and the Naval and Marine Corps Reserves [for participating in flight duties of one kind or another]....
>
> The committee considers the need for this pay to be apparent, even though it is unfortunate that the country must resort to it. The Army and Navy must maintain active Reserve components, or else, in time of war emergency, the Nation will have to depend exclusively upon the Regular services for its defense. They are patently incapable of doing such a job alone. So, in order to vitalize the National Guard and Reserve components, to get more people to participate so that they will fit promptly and effectively into the mobilization-day plans of the Armed Forces, inactive duty pay is to be given each participant at the rate of one-thirtieth of 1 month's base and longevity pay for each training period.... Such specialists as pilots, radar technicians, medical people, and so forth, will also be able to earn inactive duty training pay when the standards specified by the Secretaries [of the various departments] are met.[32] [33]

These provisions covered personnel of all the reserve forces performing parachute-jumping duties as a part of their inactive-duty training.

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), restated the provisions of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, 56 Stat. 359 (1942), as amended by the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), insofar as the entitlement of reserve forces personnel to special pay for the performance of hazardous duties was concerned. Section 501 of the Career Compensation Act, ch. 681, *id*., §501, 63 Stat. 825–27, dealt generally with the entitlement of reserve forces personnel to compensation for inactive-duty training. Subsection (d) of Section 501, 63 Stat. 826, generalized the hazardous duty incentive pay entitlements of reserve forces personnel performing inactive-duty

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[31] For a discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)," above.

[32] H.R. Rep. No. 80-971 (Committee on Armed Services), at 1–2, accompanying H.R. 3227, 80th Cong., 1st sess. 1947). See S. Rep. No. 80-625 (Committee on Armed Services), at 1, accompanying S. 1174, 80th Cong., 1st sess. (1947).

[33] Section 14(c) of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14(c), 56 Stat. 359, 367 (1942), as amended by Section 3 of the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat 87, 88–89 (1948), extended special pay to "personnel required to perform aerial flights, parachute jumping, glider flights, or submarine duty" in connection with inactive-duty training. As stated in S. Rep. No. 80-625 (Committee on Armed Services), at 2, accompanying S. 1174, 80th Cong., 1st sess. (1947): "Increases in pay authorized by law for flying, parachute jumping, submarine duty, etc., will be paid."

training by providing that hazardous duty incentive pay was available to such personnel whenever they were required by competent orders to perform any of the hazardous duties, set out at Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 810, for which active-duty personnel were entitled to hazardous duty incentive pay. The duties set out in Section 204(a) as qualifying for such pay included crew member and non-crew member flight duties, submarine duties, glider duties, parachute jumping duties, leprosy duties, explosives demolition duties, duty at a submarine escape training tank, and duty with certain diving units.[34] Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 809–10.[35] No special reason was given for this reorganization of the provisions of prior law dealing with inactive-duty training pays, including inactive-duty training incentive pays for hazardous duties. The extension of incentive pay for hazardous duty to new classes of reserve forces personnel—e.g., to reserve forces personnel in an inactive-duty training status performing leprosy duties, explosives demolition duties, submarine escape training tank duties, etc.—appears to have derived from the extension of such pays to active-duty personnel, and not from any special concern about reserve forces personnel and whether they should be entitled to incentive pay for performance of various hazardous duties.[36] [See, for example, chapters of this book dealing with explosives demolition duty pay, leprosy pay, etc.]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §647, 99 Stat. 583, 655 (1985), amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hour resources.
>
> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP for flying be permitted to credit active duty or inactive duty training flight time to fulfill active or inactive duty flight time requirements.[37]

While the concern that led to the amendment in issue was the appropriate use and apportionment of flying time, the amendment to 37 U.S.C. §301(f) was stated in broader terms, so that it applies to any of the

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[34] See Section 204(a) of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802, 809–10 (1949).

[35] The inactive-duty training pay provisions contained in section 501 of the Career Compensation Act of 1949, ch. 681, *id*., 63 Stat. 825–27, were classified to 37 U.S.C. §301, whereas the hazardous duty incentive pay provisions set out in Section 204 of the Career Compensation Act, ch. 681, *id*., 63 Stat. 809–10, were classified to 37 U.S.C. §235. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions relating to hazardous duty incentive pay entitlements of reserve forces personnel were codified at 37 U.S.C. §301, together with the hazardous duty incentive pay provisions relating to active-duty personnel. The current structure of hazardous duty incentive pay entitlements—including hazardous duty incentive pay for parachute duty—for reserve forces personnel performing inactive-duty training thus derives from the organization imposed on Title 37 by the Act of September 7, 1962, Pub. L. No. 87-649, *id*.

[36] The Hook Commission, whose report led to the adoption of the Career Compensation Act of 1949, did not concern itself with reserve forces compensation in any way. See, e.g., "Terms of Reference," the charter given to the Hook Commission by the then Secretary of Defense, James Forrestal, in *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, vii–viii.

[37] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).

hazardous duties set out in 37 U.S.C. §301(a), including parachute duty, and not just flight duty. Thus, for any month in which a member of a reserve force is involved both in active-duty and inactive-duty training for which the member is entitled to hazardous duty incentive pay under 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on the combined entitlement for both active-duty and inactive-duty training.

Until 2003, Executive Order 11157 of June 22, 1964, as amended, established performance requirements—minimum exposure standards, normally exceeded by personnel performing the duty on a full-time basis—that must be met to qualify for the pay. Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to parachute duty pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments.

Parachute duty pay is not awarded for meeting the minimum exposure standard; rather, it is paid for facing as much exposure as the needs of the service may require during a period of parachute duty. In general, one jump meets the minimum exposure standard and qualifies a member for the extra pay for a three-month period. A member who is unable to perform a jump in a three-month period because of military operations or the absence of jump equipment or aircraft may qualify for the pay for the three-month non-jumping period plus the following nine consecutive months by performing four jumps at any time during the nine- month period. Jump requirements may be waived during combat operations in a hostile fire pay area.

Current rates of parachute duty pay: The current rates of pay authorized for parachute duty are as follows:

Category of parachute jumping duty	Pay authorized
Military free fall operations without the use of a static line (HALO)	$225 per month
All other forms of parachute duty	$150 per month

Cost: For the cost of parachute duty pay from 1972 to 2016, see table II-14, below.

Table II-14. Parachute Duty Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	35,573	$26,820	5,066	$6,686	30,507	$20,134
1973	34,751	25,967	4,594	6,063	30,157	19,904
1974	30,185	22,455	3,837	5,065	26,348	17,390
1975	27,590	20,206	3,027	3,995	24,563	16,211
1976	26,183	19,122	2,786	3,678	23,397	15,444
1977	27,185	19,621	2,543	3,357	24,642	16,264
1978	29,077	21,028	2,784	3,675	26,293	17,353
1979	28,606	20,793	2,899	3,827	25,707	16,966
1980	29,404	21,350	2,945	3,887	26,459	17,463
1981	29,199	21,236	2,978	3,931	26,221	17,305
1982	28,651	29,987	3,372	4,456	25,279	25,531
1983	30,183	31,140	3,330	4,395	26,853	26,745
1984	35,040	36,056	3,564	4,705	31,476	31,351
1985	36,536	37,691	4,018	5,303	32,518	32,388
1986	37,054	49,706	4,741	6,323	32,311	43,383

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1987	40,924	79,615	5,834	21,550	35,090	58,065
1998	41,248	101,452	5,917	27,925	35,331	73,527
1989	41,849	110,628	5,998	30,557	35,851	80,071
1990	41,744	109,802	5,731	29,755	36,013	80,047
1991	44,819	61,129	5,873	8,137	38,946	52,992
1992	45,280	61,648	5,842	8,066	39,438	53,582
1993	44,842	61,054	6,029	8,314	38,813	52,740
1994	45,239	61,714	6,056	8,358	39,183	53,356
1995	43,786	59,959	6,189	8,489	37,597	51,470
1996	47,596	59,596	10,397	8,896	37,199	50,700
1997	43,761	59,901	6,505	8,873	37,256	51,028
1998	40,866	72,246	6,320	11,013	34,546	61,233
1999	41,944	75,037	6,359	11,552	35,585	63,485
2000	41,822	76,730	6,364	11,553	35,458	65,177
2001	42,786	78,335	6,679	12,016	36,107	66,319
2002	37,415	78,565	1,126	12,113	36,289	66,452
2003	45,799	83,748	7,115	12,923	38,684	70,825
2004	46,138	86,183	7,265	13,424	38,873	72,759
2005	40,900	76,024	7,228	13,631	33,672	62,393
2006	58,271	115,511	7,561	14,398	50,710	101,113
2007	79,790	148,083	7,909	15,116	71,881	132,967
2008	113,670	209,921	10,738	20,410	102,932	189,511
2009	50,782	94,115	7,449	14,103	43,333	80,012
2010	54,869	101,583	8,102	15,287	46,767	86,296
2011	52,936	99,308	8,356	15,769	44,580	83,539
2012	53,870	101,165	8,969	16,954	44,901	84,211
2013	54,503	96,837	8,859	16,764	45,644	80,073
2014	52,837	99,560	8,606	16,368	44,231	83,192
2015	51,567	97,409	8,047	15,397	43,520	82,012
2016[1]	50,551	95,558	8,054	15,417	42,497	80,141

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.D.2.b.
Glider Duty Pay

Legislative Authority: Formerly, 37 U.S.C. §301(a)(3) and (c)(1). The legislative authority for this hazardous duty incentive pay was repealed by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §624(a)(1), 98 Stat. 2492, 2542 (1984).

Purpose: To induce armed forces personnel to volunteer for and remain in glider flying duties, and to compensate for the more than normally dangerous character of such duties.

Background: Glider duty pay was first authorized by the Act of July 1, 1944, ch. 372, Pub. L. No. 78-409, 58 Stat. 682 (1944), in order "to place glider units of the Army and Navy on the same parity as to pay as now given to the air forces of the Army and Navy and paratroops."[1] At the time, the existing flight pay rate was 50 percent of base and longevity pay,[2] and the parachute duty pay rate was $100 a month for officers and $50 for enlisted personnel. The Act of July 1, 1944, ch. 372, *id*., achieved the sought-after "parity" for personnel assigned to glider duties by establishing a hybrid glider duty pay rate of 50 percent of base and longevity pay, but not to exceed $100 a month for officers or $50 a month for enlisted personnel.[3] As explained by the House Military Affairs Committee:

> The bill as amended by your committee would authorize glider personnel to receive an increase of 50 percent of their pay, as is now provided for persons who regularly and frequently participate in aerial flights, but would restrict such pay so as not to exceed that now provided for parachute troops.[4]

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(a)(9) and (c), 63 Stat. 802, 810 (1949), classified glider duty pay, together with crew member flight pay and parachute duty pay, among others, as an incentive pay for hazardous duty. Rates of pay for glider duties were set at a flat $100 per month for officers and $50 per month for enlisted personnel, thereby bypassing the formulaic provisions of the Act of July 1, 1944, ch. 372, Pub. L. No. 78-409, 58 Stat. 682 (1944). Gliders went out of operational service in the early 1950s, and as a practical matter entitlements to hazardous duty incentive pay for glider duty ceased at that time.[5] Even so, glider duty continued to be classified as one of the duties for which hazardous duty incentive pay was authorized, and every time the rates of pay authorized for such duties in general were adjusted, the adjustment automatically applied to glider duty as well. Thus, when the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(6), 69 Stat. 18, 21 (1955), increased the statutory monthly rates of pay for hazardous duties generally to $110 for officers and to $55 for enlisted personnel, such increases were technically authorized for glider duty as well. Similarly, when the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(c), 95 Stat. 989, 993 (1955), further increased the rates of hazardous duty incentive pay for enlisted personnel to $83 per month, the increase applied to glider duty also.

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[1] Extra pay for members of the "air forces of the Army and Navy and paratroops" had earlier been authorized primarily in recognition of the hazardous nature of such duties. See Chapters II.D.1.b.(1), II.D.1.b.(2), and II.D.2.a. hereof, above, "Flight Pay (Crew Member)," "Flight Pay (Non-Crew Member)," and "Parachute Duty Pay," respectively.

[2] For an explanation of the base and longevity pay system in operation in 1944, see Chapter II.B.1. hereof, above, "Basic Pay."

[3] For many officer and enlisted pay grades, base and longevity pay was sufficiently low that glider duty pay entitlement was less than the $100 and $50 ceilings, respectively. See 1944 base and longevity pay rates by pay grade in the tables accompanying Chapter II.B.1., "Basic Pay," above.

[4] H.R. Rep. No. 1712 (Committee on Military Affairs), at 2, accompanying H.R. 4466, 78th Cong., 2d sess. (1944).

[5] Since then, the armed forces have made non-operational use of gliders in some training programs. See, e.g., *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 155–66. But no armed forces personnel involved in such programs have been authorized to receive glider duty pay on account of such involvement.

As explained in the relevant congressional report, the rates of pay authorized for the general group of duties classified as hazardous were increased in 1981 in recognition of the fact that they had "not been adjusted in more than 20 years, and this increase is needed to enhance the incentive value of this pay."[6] Despite the increase in the rates of pay authorized for hazardous duties generally, however, and the expressed rationale therefore, no one in the armed forces received the higher rates of pay for glider duty.

In 1984 the authorization for glider duty pay was repealed, on the grounds that the pay was "no longer necessary,"[7] by Section 624(a)(1) of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §624(a), 98 Stat. 2492, 2542 (1984). As explained by Congress, the determination that glider duty pay was "no longer necessary" derived from the recommendation of the Fifth Quadrennial Review of Military Compensation[8] that the authorization for such pay be rescinded. The basis for the recommendation by the Fifth Quadrennial Review was that there was "no valid need [for such pay]; pay under crew member/non-crew member possible."[9] In short, the Fifth Quadrennial Review concluded that the vast majority, if not all, of the non-aviator-rated armed forces personnel who might conceivably become entitled to glider duty pay by reason of performing glider duties of some sort would be entitled to receive either crew member flight pay, under present 37 U.S.C. §301(a)(1),[10] or non-crew member flight pay, under present 37 U.S.C. §301(a)(2),[11] since entitlement to such pays depends, among other things, on whether a person is assigned to duty requiring "frequent and regular participation in aerial flight," 37 U.S.C. §301(a)(1) and (2), and "aerial flight" is defined in implementing presidential regulations[12] to include "flight" in, among other things, a "glider."[13] Rated personnel assigned to glider duties, on the other hand, would under most circumstances be entitled to aviation career incentive pay under present 37 U.S.C. §301a.[14] Congress appears to have been persuaded by this reasoning.[15]

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[6] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[7] S. Rep. No. 98-500 (Committee on Armed Services), at 211, accompanying S. 2723, and H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[8] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to the requirements of 37 U.S.C. §1008(b), and its report and recommendations were submitted to Congress in late 2001.

[9] *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-5.

[10] After enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), the hazardous duty incentive pay provisions thereof, including glider duty pay, were in the main classified to 37 U.S.C. §235. See 37 U.S.C. §235(a)(1) and (b) (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the hazardous duty pay provisions, including the glider duty pay provisions here in issue, were codified at 37 U.S.C. §301, and the various classifications of hazardous duty for which special pay was authorized were set out in subsection (a) thereof.

[11] See preceding footnote to this chapter, above.

[12] Under 37 U.S.C. §301(a), the President is to prescribe regulations covering the hazardous duty incentive pay program generally.

[13] See *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 7, 155–57.

[14] See 37 U.S.C. §301a, generally, and Chapter II.D.1.b.(3) hereof, above, "Aviation Career Incentive Pay (ACIP) and Aviation Career Continuation Pay (AOCP)." Also see *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 155.

[15] The *Report of the Fifth Quadrennial Review* noted the possibility that non-aviator-rated officers might be assigned to duties involving gliders and glider flight, although it suggested that such an eventuality would be unlikely, having happened "only once in the past 25 years." See *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 7, 156–57. At the time the report was issued, a non-aviator-rated officer assigned to glider-related duties would not have been entitled to crew member flight pay under 37 U.S.C. §301(a)(1) since only enlisted personnel were entitled to such pay at that time. See 37 U.S.C. §301(a)(1) as in effect in 1983–1984. The Department of Defense Authorization Act, 1986, Publ. L. No. 99-145, §635(a)(1)(A), 99 Stat. 583,

Before the repeal of glider duty pay authority, reserve forces personnel[16] entitled to compensation for inactive-duty training were technically entitled to glider duty pay when they performed qualifying duties under competent orders, provided adequate funds were appropriated by Congress for that purpose.[17] Under 37 U.S.C. §301(f), members of the reserve forces who performed qualifying glider duties while entitled to compensation under 37 U.S.C. §206 were also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active duty personnel performing such duties.[18] That is, before repeal of the basic legal authority for glider duty pay, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces was entitled to compensation under 37 U.S.C. §206, the member was, if performing qualifying glider duty under 37 U.S.C. §301(f), also entitled to 1/30th of the glider duty flight pay that would be payable to a member of the active-duty force who was performing such duties. Thus, until the legal authority for glider duty pay was repealed, as set out above, glider duty was one of the duties for which hazardous duty incentive pay was available, at least as a technical matter, to reserve forces personnel performing inactive-duty training: under the now-repealed Executive Order 11157, a member of a reserve force who performed glider duties under 37 U.S.C. §301(f) while engaged in inactive-duty training was entitled to glider duty flight pay.

Authority for glider duty pay for reserve forces personnel engaged in inactive-duty training can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive-duty reserve forces personnel engaged in hazardous duties of one kind or another.[19] In fact, however, glider duties were not covered by the Army Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to

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647 (1985), remedied this possible problem by extending crew member flight pay entitlement to all crew members, not just enlisted crew members. See present 37 U.S.C. §301(a)(1) and Chapter II.D.1.b.(1) hereof, above, "Flight Pay (Crew Member)." Even apart from the 1986 Authorization Act, however, non-aviator-rated officers might have been entitled to non-crew member flight pay under 37 U.S.C. §301(a)(2) if assigned to glider-related duties, provided all requirements of that provision and its implementing regulations otherwise were met.

[16] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[17] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[18] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[19] For a more complete discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training generally, see Chapter II.D.1.b.(1) hereof, above, "Flight Pay (Crew Member)."

which they would otherwise have been entitled.[20] The first special provision for glider duty pay for reserve forces personnel engaged in inactive-duty training came in the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat. 87, 88 (1948), which gave "officers, warrant officers, and enlisted personnel" of all the reserve forces entitlement to special pay for "perform[ing] ... glider flights," among other things. As stated in the House report:

> The purpose of the bill is to standardize inactive training pay for all Reserve components of the various services and also to grant such inactive duty training pay to Army Reservists.
>
> The major departure in the legislation is the giving of this pay to the Army Reserves, including enlisted men. Such pay has been granted by the Congress heretofore to members of the National Guard and the Naval and Marine Corps Reserves [for participating in flight duties]....
>
> The committee considers the need for this pay to be apparent, even though it is unfortunate that the country must resort to it. The Army and Navy must maintain active Reserve components, or else, in time of war emergency, the Nation will have to depend exclusively upon the Regular services for its defense. They are patently incapable of doing such a job alone. So, in order to vitalize the National Guard and Reserve components, to get more people to participate so that they will fit promptly and effectively into the mobilization-day plans of the Armed Forces, inactive duty pay is to be given each participant at the rate of one-thirtieth of 1 month's base and longevity pay for each training period.... Such specialists as pilots, radar technicians, medical people, and so forth, will also be able to earn inactive duty training pay when the standards specified by the Secretaries [of the various departments] are met.[21] [22]

These provisions covered personnel of all the reserve forces performing glider duties as a part of their inactive-duty training.

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), restated prior provisions of law relating to the entitlement of reserve forces personnel to special pay for the performance of hazardous duty, including glider duties, while engaged in inactive-duty training. Section 501 of the Career Compensation Act, ch. 681, *id*., §501, 63 Stat. 825–27, dealt generally with the entitlement of reserve forces personnel to compensation for inactive-duty training. Subsection (d) of Section 501, 63 Stat. 826, generalized the hazardous duty incentive pay entitlements of reserve forces personnel performing inactive-duty training by providing that hazardous duty incentive pay was available to such personnel whenever they were required by competent orders to perform any of the hazardous duties, set out at Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 810, for which active- duty personnel were entitled to hazardous duty incentive pay. The duties set out in Section 204(a) as qualifying for such pay included crew member and non-crew member flight duties, submarine duties,

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[20] Subsequent enactments extended both the categories of duties for which, and the categories of personnel to whom, hazardous duty incentive pay was available for inactive-duty training. See Chapter II.D.1.b.(1) hereof, "Flight Duty (Crew Member)," for a more complete discussion of the history of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training.

[21] H.R. Rep. No. 80-971 (Committee on Armed Services), at 1–2, accompanying H.R. 3227, 80th Cong., 1st sess. (1947). See S. Rep. No. 80-625 (Committee on Armed Services), at 1, accompanying S. 1174, 80th Cong., 1st sess. (1947).

[22] Section 14(c) of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14(c), 56 Stat. 359, 367 (1942), as amended by Section 3 of the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat 87, 88–89 (1948), extended special pay to "personnel required to perform aerial flights, parachute jumping, glider flights, or submarine duty" in connection with inactive-duty training. As stated in S. Rep. No. 80-625 (Committee on Armed Services), at 2, accompanying S. 1174, 80th Cong., 1st sess. (1947): "Increases in pay authorized by law for flying, parachute jumping, submarine duty, etc., will be paid."

parachute-jumping duties, leprosy duties, explosives demolition duties, duty at a submarine escape training tank, duty with certain diving units, as well as glider duties. Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 809–10.[23] No special reason was given for this reorganization of the provisions of prior law dealing with inactive-duty training pays, including inactive-duty training incentive pays for hazardous duties. The extension of incentive pay for hazardous duty to new classes of reserve forces personnel—e.g., to reserve forces personnel in an inactive-duty training status performing leprosy duties, explosives demolition duties, submarine escape training tank duties, etc.—appears to derive from the extension of such pays to active-duty personnel, and not from any special concern about reserve forces personnel and whether they should be entitled to incentive pay for the performance of various hazardous duties.[24]

The repeal of the basic authority for glider duty pay by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §624(a), 98 Stat. 2492, 2542 (1984), effectively cut off reserve entitlements as well as active-duty entitlements.

[23] The inactive-duty training pay provisions contained in section 501 of the Career Compensation Act of 1949, ch. 681, *id*., 63 Stat. 825–27, were classified to 37 U.S.C. §301, whereas the hazardous duty incentive pay provisions set out in Section 204 of the Career Compensation Act, ch. 681, *id*., 63 Stat. 809–10, were classified to 37 U.S.C. §235. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions relating to hazardous duty incentive pay entitlements of reserve forces personnel were codified at 37 U.S.C. §301, together with the hazardous duty incentive pay provisions relating to active-duty personnel. The current structure of hazardous duty incentive pay entitlements for reserve forces personnel performing inactive-duty training thus derives from the organization imposed on Title 37 by the Act of September 7, 1962, Pub. L. No. 87-649, *id*.

[24] The Hook Commission, whose report led to the adoption of the Career Compensation Act of 1949, did not concern itself with reserve forces compensation in any way. See e.g., "Terms of Reference," the charter given to the Hook Commission by the then Secretary of Defense, James Forrestal, in *Career Compensation for the Uniformed Forces,* A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, vii–viii.

Chapter II.D.2.c.
Flight Deck Duty Pay

Legislative Authority: 37 U.S.C. §301(a)(8) and (c)(1).

Purpose: To provide an additional pay to increase the Navy's ability to attract and retain personnel for duty involving the launching of aircraft from and their recovery on aircraft carriers and other ships from which aircraft are launched, and to compensate for the more than normally dangerous character of such duty.

Background: The Act of August 28, 1965, Pub. L. No. 89-149, §1(3), 79 Stat. 585 (1965), created a new category of duty for which hazardous duty incentive pay was authorized—namely, "duty involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier." As initially adopted, the rates of pay for such duty were set at $110 per month for officers and $55 per month for enlisted personnel.[1] Congress described the purpose underlying the payment of incentive pay for so-called "flight deck duty" in these terms:

> Payment of incentive pay to flight deck personnel is thus justified, fully and primarily, upon the basis of the hazards involved, aside from all other considerations. Nevertheless, there are important collateral reasons why the proposed legislation would be highly beneficial to the Government as well as to the individual recipient.
>
> A large proportion of flight-deck personnel are newly-rated third-class aviation boatswain's mates (E-4) or nonrated personnel (E-3 or E-2). Their reenlistment rate is about one-third the overall Navy first reenlistment rate.... The inevitable result is an experience level chronically below the optimum desired for maximum safety and efficiency.... However, an improvement in retention rate and experience level could be expected to follow enactment of this legislative proposal, and this improvement should further result in a significant reduction of fatalities, injuries, and property damage, and an increase in the combat potential of naval airpower.[2]

In implementing this new hazardous duty pay, the President, through Executive Order 11157 of June 22, 1964, as amended,[3] originally restricted flight deck duty pay to the crews of fixed-wing-aircraft carriers or aviation units operating therefrom.

The initial officer–enlisted differential in flight deck duty pay rates was a product of the hazardous duty incentive pay structure deriving from the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(c), 63 Stat. 802, 809–10 (1949),[4] which was in turn based on recommendations of the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission, in 1948. The Hook Commission's rationale for an officer–enlisted differential was that:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:

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[1] Under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(c), 63 Stat. 802, 810 (1949), officers received $100 per month and enlisted personnel received $50 per month for the hazardous duty incentive pays—other than flight and submarine duty pay—ultimately codified at 37 U.S.C. §301. Hazardous duty incentive pay rates were increased by 10 percent for both officers and enlisted personnel by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(6), 69 Stat. 18, 21 (1955)—to $110 for officers and to $55 for enlisted personnel. Thus, when members of the uniformed services first became entitled to hazardous duty incentive pay for flight deck duty under amendments to 37 U.S.C. §301 made by the Act of August 28, 1965, Pub. L. No. 89-149, §1(3), 79 Stat. 585 (1965), the rates of pay were $110 a month for officers and $55 a month for enlisted personnel.

[2] H.R. Rep. No. 89-171 (Committee on Armed Services), at 2, accompanying H.R. 3044, 89th Cong., 1st sess. (1965).

[3] Reproduced, as amended, at 37 U.S.C. §301 note.

[4] See footnote 1 to this chapter, above.

> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.
>
> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.
>
> (3) Officers are usually given greater responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.[5] [6]

Under the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111, 95 Stat. 989, 993 (1981), Congress expanded the category of personnel eligible for flight deck duty pay and increased the pay rates for enlisted personnel involved in qualifying duty by 50 percent, to $83 per month, effective October 1, 1981. As explained in the Senate report, flight deck duty pay was extended to personnel involved in flight deck duties on ships other than aircraft carriers in recognition of the "extensive personal sacrifices made by military members ... whose routine duties involve hazardous working conditions."[7] Flight deck duty pay rates for enlisted personnel were increased in recognition of the fact that they had "not been adjusted in more than 20 years [in the case of flight deck duty, since original adoption in 1965], and this increase is needed to enhance the incentive value of this pay."[8]

Flight deck duty pay rates for enlisted personnel were further increased to $110 per month in 1985 by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 99 Stat. 583, 648 (1985). This increase was effected by an amendment to 37 U.S.C. §301(c)(1) that did away with any distinction between officers and enlisted personnel for the vast majority of duties qualifying for hazardous duty incentive pay, specifically including flight deck duty pay. Prior to amendment by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., 37 U.S.C. §301(c)(1) read as follows:

> For the performance of the hazardous duty described in [various clauses of subsection (a) of 37 U.S.C. §301, including flight deck duty], an officer is entitled to $110 a month and an enlisted member is entitled to $83 a month.

After amendment by the 1986 Authorization Act, Pub. L. No. 99-145, *id*., 37 U.S.C. §301(c)(1) reads as follows:

> For the performance of hazardous duty described in [the same clauses set out above, including flight deck duty], a member is entitled to $110 a month.[9]

Thus, under 37 U.S.C. §301, all members, both officers and enlisted personnel,[10] were entitled to $110 per month for the performance of flight deck duties under qualifying orders.

The legislative history of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., does not per se indicate the reason for doing away with the distinction between officers and enlisted

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[5] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[6] For a short discussion of the treatment accorded hazardous duty incentive pays under the Career Compensation Act, see H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, and S. Rep. No. 81-733 (Committee on Armed Services), at 18, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[7] S. Rep. No. 97-146 (Committee on Armed Services), at 7, accompanying S.1181, 97th Cong., 1st sess. (1981).

[8] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S.1181, 97th Cong., 1st sess. (1981).

[9] The increase in hazardous duty incentive pay rates for enlisted personnel engaged in flight deck duties became effective October 1, 1985. See Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(b), 99 Stat. 583, 648 (1985).

[10] The term "member" is defined in 37 U.S.C. §101(23) to mean "a person appointed or enlisted in, or conscripted into, a uniformed service." As such, "member" includes both officers and enlisted personnel.

personnel with respect to the rates of pay authorized for flight deck duties. This omission was primarily because no report was ever submitted on the Senate bill, S. 1160, in which the proposal to equalize the rates of flight deck duty pay for officers and enlisted personnel was made.[11] In fact, however, the proposal to equalize officer and enlisted rates of pay for various hazardous duties, including flight deck duty, had been made the preceding year in connection with the consideration of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984). At that time, the Senate Committee on Armed Services, reporting out S. 2723, 98th Cong., 2d sess. (1984), had included a provision that would, among other things, have equalized officer and enlisted rates of hazardous duty incentive pay for flight deck duty.[12] In support of its recommendation, the committee stated:

> The committee proposes that the enlisted and officer rates for several hazardous duty incentive pays be equalized....
>
> The *Fifth Quadrennial Review of Military Compensation* (QRMC) examined special and incentive pays in great detail. One of its conclusions was that the differential between enlisted and officer rates for seven hazardous duty incentive pays [including flight deck duty pay] should be eliminated....
>
> The committee agrees that enlisted and officer personnel should be paid the same incentive for exposing themselves to similar hazards. Therefore, it recommends that the

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[11] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

> ... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.
>
> When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....
>
> Most of the Senate Report 99-41 continues to be applicable to this bill....

131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... In addition, the Committee recommended increases or enhancements to a number of special and incentive pays....
>
> The special and incentive pays ... involved in these recommendations include:
>
> g. Hazardous duty pays.
>
> Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither Senate Report No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the hazardous duty incentive pay program in general, or to the flight deck duty pay program in particular, that were contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

[12] See Section 148 of S. 2723, 98th Cong., 2d sess. (1984).

> rates for these seven hazardous duty pays be changed to entitle both enlisted and officer personnel to $110 per month.[13]

The 1984 Senate proposal was eliminated in conference.[14]

As indicated above, the flight deck duty pay "enhancements" adopted as part of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985), closely parallel recommendations advanced by the Fifth Quadrennial Review of Military Compensation in 1984.[15] In support of its recommendation to "[e]liminate the officer/enlisted differential" and "[s]et the FDDP [flight deck duty pay] rate at $110 per month,"[16] the Fifth Quadrennial Review stated:

> Flight deck duty is non-voluntary in nature, therefore, the function of FDDP is to recognize that such duty is more hazardous than those assigned to the typical service member.
>
> Since the concept of an incentive pay is not believed applicable to this pay, an officer/enlisted differential is not considered valid.
>
> The appropriate level of payment is $110 per month, irrespective of grade.[17] [18]

In further comment on officer–enlisted differentials for various hazardous duty incentive pays, including flight deck duty, the Fifth Quadrennial Review stated:

> During the process of reviewing the various Hazardous Duty Incentive Pays, it became increasingly clear that, although there is some incentive associated with certain pays, the primary purpose is recognition for the hazards or risks involved. It was, therefore, believed that officer/enlisted personnel should receive the same level of payment for seven of the Hazardous Duty Incentive Pays: [including] ... flight deck [duty pay]....[19]

In arriving at this conclusion, the Fifth Quadrennial Review implicitly rejected the conclusions reached by the Hook Commission in 1948.[20] In commenting on various arguments that had been advanced

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[13] S. Rep. No. 98-500 (Committee on Armed Services), at 210 (discussing section 148 of the Senate bill), accompanying S. 2723, 98th Cong., 2d sess. (1984).

[14] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[15] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Fifth Quadrennial Review of Military Compensation was convened in 1982, pursuant to presidential directive, and its report and recommendations were submitted to Congress in early 1984.

[16] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 150. Also see *id*., 7; and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-5.

[17] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III*: *Special and Incentive Pays*, November 1983, 149–50. Also see *id*., 6 ("Since the performance of flight deck duty is generally non-voluntary in nature, the dominant feature of this pay is the hazard, not the incentive.") and 7; and *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-5.

[18] In concluding that "the concept of an incentive pay is not believed applicable" in the case of flight deck duties, the Fifth Quadrennial Review apparently rejected Congress's explicitly stated conclusion that implementation of a hazardous duty incentive pay for flight deck duties would result in "an improvement in retention rate[s]" for affected personnel. See H.R. Rep. No. 89-171 (Committee on Armed Services), at 2, accompanying H.R. 3044, 89th Cong., 1st sess. (1965), quoted in text at footnote 2 to this chapter, above.

[19] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 919. See *id*., 36–37.

[20] See discussion of Hook Commission recommendations concerning officer–enlisted differentials at text accompanying footnotes 5 and 6 to this chapter, above.

in favor of and against continuation of officer–enlisted differentials for hazardous duty incentive pays in general, the Fifth Quadrennial Review summarized the argument against the Hook Commission's position in the following terms:

> The Hook Commission rationale was based primarily on an examination of the needs of the aviation and submarine communities. Times have changed and those communities now have their own separate career incentive pay and bonuses.[21]

Other arguments in favor of eliminating the differential were summarized as follows:

* All personnel, officer and enlisted, experience the same hazards.

* One can never really compensate for risk of life, no matter the level.

* Basic pay and bonuses are adequate to cover any differential.

* Most hazard-related pays now cover skills that are not necessarily career oriented (across all Services); hence, a differential is not necessary for purposes of retention. However, exceptions may occur and should be individually addressed, as required.

* [F]ield interviews [conducted by the *Fifth Quadrennial Review of Military Compensation*] with both officer and enlisted personnel indicate "same rate for same risk" is perceived as equitable in the hazardous duty areas.[22]

Whether for these or some other reasons, Congress did in fact eliminate officer–enlisted differentials for flight deck duty pay in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 99 Stat. 583, 648 (1985).

As stated by Congress, the primary justification for flight deck duty pay is "upon the basis of the hazards involved"[23] in flight deck duties. A "collateral" purpose is to encourage personnel to enter and remain involved in flight-deck operations.[24] Such operations frequently necessitate nearly continuous exposure to the hazards of flight deck duty on a career basis. To carry out this purpose, until 2003 Executive Order 11157 of June 22, 1964, as amended,[25] established performance requirements—minimum exposure standards, normally exceeded by personnel performing flight deck duty on a full-time basis—that must be met to qualify for the pay. The pay is not awarded for meeting the minimum exposure standard: it is paid for facing as much exposure as the needs of the service may require during a period of carrier flight deck duty. Participation in flight operations a minimum of four days a month, or the equivalent thereof as set out in regulations adopted by the Secretary of the Navy, is required to meet the minimum exposure standard and, subject to certain billet limitations and numerical quotas, qualifies a member for the extra pay. A member's presence during a month at an assigned station on the flight deck of an aircraft carrier where at least 160 aircraft are launched and/or recovered is, under regulations promulgated by the Secretary of the Navy, the equivalent of four days participation in flight operations. For ships other than aircraft carriers, the number of launches and/or recoveries required to meet eligibility criteria varies with the pace of operations. Hazardous duty incentive pay for flight deck duty may not be paid to a member for any month the member is also eligible to receive incentive pay for other hazardous duty under 37 U.S.C. §301.

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[21] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 920; *cf. id*., 37.

[22] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III*: *Special and Incentive Pays*, November 1983, 919–20.

[23] H.R. Rep. No. 89-171 (Committee on Armed Services), at 2, accompanying H.R. 3044, 89th Cong., 1st sess. (1965), quoted in text at footnote 2 to this chapter, above.

[24] H.R. Rep. No. 89-171 (Committee on Armed Services), at 2, accompanying H.R. 3044, 89th Cong., 1st sess. (1965). Also see footnote 18 to this chapter, above.

[25] Reproduced, as amended, at 37 U.S.C. §301 note.

The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1770 (1997), raised the monthly rate for several types of hazardous duty pay covered by 37 U.S.C. 301(c)(1), including pay given for flight-deck duty, from $110 to $150. The increase applied to all personnel engaged in this duty.

Reserve forces personnel[26] entitled to compensation for inactive-duty training are entitled to flight deck duty pay when they perform qualifying duties under competent orders, provided Congress has appropriated sufficient funds for that purpose.[27] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying flight deck duty while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[28] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying flight deck duty under 37 U.S.C. §301(f), also entitled to 1/30th of the flight deck duty pay that would be payable to a member of the active-duty force who was performing such duty. Under regulations prescribed by the President, a member of a reserve force who performs flight deck duty under 37 U.S.C. §301(f) while engaged in inactive-duty training is entitled to flight deck duty pay.[29]

Hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive-duty reserve forces personnel engaged in hazardous duties of one kind or another.[30] In fact, however, flight deck duty was not covered by the Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled.[31] The first special provision for flight deck duty

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[26] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[27] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[28] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[29] See *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶80316.

[30] For a more complete discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training generally, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)."

[31] Subsequent enactments extended both the categories of duties for which, and the categories of personnel to whom, hazardous duty incentive pay was available for inactive-duty training. See Chapter II.D.1.b.(1) hereof, "Flight Duty

pay for reserve forces personnel engaged in inactive-duty training came in the Act of August 28, 1965, Pub. L. No. 89-149, 79 Stat. 585 (1965), which, as above noted, brought "duty involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier" within the category of duties for which hazardous duty incentive pay was authorized for reserve forces personnel performing inactive-duty training.

As a practical matter, the 1965 act had been intended to extend entitlement to flight deck duty pay to active-duty personnel performing qualifying duties. The entitlements technically covered reserve forces personnel also because of the way Title 37 of the United States Code was organized. At the time, 37 U.S.C. §301(f) provided that a member of the reserve forces on inactive-duty training was entitled to additional pay for hazardous duty when the member "performs, under orders, any duty described in subsection (a) of this section." Subsection (a), in turn, covered hazardous duty incentive pay entitlements of active-duty personnel, and it was to that subsection that the entitlement to flight deck duty pay was added. The 1965 act had simply added a new category of duty for which hazardous duty incentive pay was authorized for active-duty personnel, but the pay was technically available to reserve forces personnel as well under 37 U.S.C. §301(f). Thus, reserve forces personnel on inactive-duty training had in effect "piggybacked" on active-duty personnel insofar as technical entitlement to flight deck duty pay was concerned. Reserve forces personnel similarly benefited when the category of personnel entitled to flight deck duty pay was expanded by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, 95 Stat. 993 (1981). See discussion of the 1981 act, above.

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §647, 99 Stat. 583, 655 (1985), amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hour resources.
>
> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP for flying be permitted to credit active duty or inactive duty training flight time to fulfill active or inactive duty flight time requirements.[32]

While the concern that led to the amendment in issue was the appropriate use and apportionment of flying time, the amendment to 37 U.S.C. §301(f) was stated in broader terms, so that it applies to any of the hazardous duties set out in 37 U.S.C. §301(a), and not just flight pay. Thus, for any month in which a member of a reserve force is involved both in active-duty and inactive-duty training for which the member is entitled to hazardous duty incentive pay under 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on the combined entitlement for both active-duty and inactive-duty training.

(Crew Member)," for a more complete discussion of the history of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training.

[32] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).

Until 2003, the conditions of entitlement to flight deck duty pay for both active-duty and reserve personnel were set out in Section 109(g) of Executive Order 11157, as amended, and in various supplementary regulations adopted by the service Secretaries pursuant to Section 113 of Executive Order 11157. Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to flight deck duty pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments. To the extent reserve forces personnel can claim entitlement to such pays, the language of the current executive order is applicable to them as well.

Current rate of flight deck duty pay: The current rate of pay for flight deck duty is $150 per month for both officers and enlisted personnel.

Cost: For the cost of compensation for flight deck duty from 1972 to 2016, see table II-15, below.

Table II-15. Flight Deck Duty Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	8,193	$5,559	292	$385	7,901	$5,174
1973	9,367	6,426	369	487	8,998	5,939
1974	8,026	5,511	324	428	7,702	5,083
1975	7,950	5,449	307	405	7,643	5,044
1976	7,827	5,368	307	405	7,520	4,963
1977	7,007	4,810	280	370	6,727	4,440
1978	7,100	4,851	250	330	6,850	4,521
1979	7,470	5,108	270	356	7,200	4,752
1980	7,089	4,857	270	356	6,819	4,501
1981	8,387	5,717	275	363	8,112	5,354
1982	10,056	10,160	443	585	9,613	9,575
1983	12,368	12,513	600	792	11,768	11,721
1984	13,556	13,705	627	828	12,929	12,877
1985	13,787	13,966	723	954	13,064	13,012
1986	13,903	18,352	833	1,100	13,070	17,252
1987	14,545	19,199	858	1,132	13,687	18,067
1988	14,724	19,436	891	1,176	13,833	18,260
1989	16,123	21,282	979	1,292	15,144	19,990
1990	15,708	20,736	963	1,272	14,745	19,464
1991	16,867	22,265	1,072	1,415	15,795	20,850
1992	13,505	17,827	859	1,134	12,646	16,693
1993	13,987	18,463	887	1,171	13,100	17,292
1994	13,155	17,365	833	1,100	12,322	16,265
1995	12,808	16,906	843	1,112	11,965	15,794
1996	13,153	17,362	822	1,085	12,331	16,277
1997	12,063	15,924	663	876	11,400	15,048
1998	12,108	21,003	695	1,206	11,413	19,797
1999	12,275	22,095	617	1,110	11,658	20,985
2000	11,073	19,932	617	1,111	10,456	18,821
2001	9,486	17,075	626	1,127	8,860	15,948
2002	9,914	17,845	635	1,143	9,279	16,702

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2003	10,933	19,679	679	1,222	10,254	18,457
2004	6,762	12,173	554	998	6,208	11,175
2005	7,894	14,210	518	933	7,376	13,277
2006	7,832	14,098	522	940	7,310	13,158
2007	8,038	14,461	514	918	7,524	13,543
2008	8,244	14,840	1,101	1,982	7,143	12,858
2009	7,276	13,097	480	864	6,796	12,233
2010	7,230	13,013	470	846	6,760	12,167
2011	7,968	14,342	511	920	7,457	13,422
2012	6,803	12,246	482	868	6,321	11,378
2013	5,895	10,611	375	675	5,520	9,936
2014	5,945	10,701	371	668	5,574	10,033
2015	5,592	10,064	347	624	5,245	9,440
2016[1]	6,452	11,613	357	642	6,095	10,971

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.D.2.d.
Toxic Fuels and Propellants and Chemical Munitions Exposure Pay

Legal Authority: 37 U.S.C. §301(a)(10) and (c)(1).

Purpose: To provide an additional incentive for uniformed services personnel to engage in various activities in which they may be exposed to toxic fuels or propellants, or to chemical munitions, and to compensate such personnel for the more than normally dangerous character of such duty.

Background: The Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–93 (1981), amended 37 U.S.C. §301 to authorize the payment of hazardous duty incentive pay to uniformed services personnel assigned to duty "involving the servicing of aircraft or missiles with highly toxic fuels or propellants." As explained in relevant congressional documents, military personnel who "service aircraft or missiles with highly toxic fuels or propellants" were added to the "categories of personnel whose duties have been determined to be hazardous" for the purposes of 37 U.S.C. §301 in recognition of the "extensive personal sacrifices made by military members whose daily duties place them in imminent danger from hazards such as toxic, lethal, or carcinogenic substances or whose routine duties involve hazardous working conditions."[1] Under other amendments to hazardous duty incentive pay made by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., §111(c), 95 Stat. 993, the rate of pay for enlisted personnel performing duty "involving the servicing of aircraft or missiles with highly toxic fuels or propellants" was set at $83 per month, an increase of 50 percent over the rate that had applied theretofore, and the rate of pay for officers performing such duties was maintained at $110 per month.[2]

The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §903(a), 97 Stat. 614, 635 (1983), extended entitlement to toxic fuels and propellants exposure pay to uniformed services personnel involved in "the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used." As explained by the House Armed Services Committee, Congress, in adopting the toxic fuels and propellants pay provisions of the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–93 (1981), had originally intended to include this category of personnel within the general class entitled to toxic fuels and propellants exposure pay but, having inadvertently excluded them, was now taking action specifically to include them:

> Recently, the committee recommended extension of hazardous duty pay to service members whose daily duties placed them in imminent danger from hazards, such as toxic

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[1] S. Rep. No. 97-146 (Committee on Armed Services), at 7–8, accompanying S. 1181, 97th Cong., 1st sess. (1981). See H.R. Rep. No. 97-265 (Committee of Conference), at 22, accompanying S. 1181, 97th Cong., 1stsess. (1981).

[2] Under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(c), 63 Stat. 802, 810 (1949), officers received $100 per month and enlisted personnel received $50 per month for the hazardous duty incentive pays—other than flight and submarine duty pay—ultimately codified at 37 U.S.C. §301. Hazardous duty incentive pay rates were increased by 10 percent for both officers and enlisted personnel by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(6), 69 Stat. 18, 21 (1955)—to $110 for officers and to $55 for enlisted personnel. Enlisted personnel received a further increase to $83 per month—a 50 percent raise—by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(c), 95 Stat. 989, 993 (1981), the same act that extended hazardous duty incentive pay entitlements to personnel exposed to toxic fuels and propellants. See Uniformed Services Pay Act of 1981, Pub. L .No. 97-60, *id*., §111(a), 95 Stat. 992–93. As indicated by Congress, the reason for the 1981 increase in hazardous duty incentive pay rates for enlisted personnel was that such rates had "not been adjusted in more than 20 years, and this increase is needed to enhance the incentive value of this pay." S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981). Thus, when members of the uniformed services first became entitled to hazardous duty incentive pay for exposure to toxic fuels or chemicals under amendments to 37 U.S.C. §301 made by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., §111(a), 95 Stat. 992–93, the rates of pay were $110 a month for officers and $83 a month for enlisted personnel.

> fuels. Due to an inadvertent oversight, some individuals meeting this general criterion were not covered by the legislative language.
>
> The committee recommends minor changes to clarify the original intent to provide hazardous duty pay to fuel handlers who work on components of rocket engines and aircraft, as well as other fuel handlers who work on rockets and aircraft themselves. For example, fuel handlers who work on rocket test sleds experience the same hazards as those who fuel large scale rockets. It is the committee's intent to cover all such similarly situated categories equally.[3]

When duties involving personal exposure to toxic fuels and propellants were added to the "categories of personnel whose duties [were] determined to be hazardous" for the purposes of 37 U.S.C. §301 by the Uniformed Services Pay Act of 1981, and, later, by the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §903(a), 97 Stat. 614, 635 (1983), the rates of pay for the hazardous duties covered by that provision were $110 per month for officers and $83 per month for enlisted personnel, and these rates applied, *pari passu*, to personnel entitled to hazardous duty incentive pay on account of exposure to toxic fuels and propellants. The officer–enlisted rate differential was a product of the pay structure for hazardous duty incentive pay adopted in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949),[4] which had in turn been based on the recommendations of the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission. The Hook Commission's rationale for an officer–enlisted pay differential was that:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.
>
> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.
>
> (3) Officers are usually given greater special responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.[5] [6]

In 1985 the rates of hazardous duty incentive pay generally, and for duty involving exposure to toxic fuels and propellants in particular, were increased to $110 per month for enlisted personnel by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 99 Stat. 583, 648 (1985). This increase was effected by an amendment to 37 U.S.C. §301(c)(1) that did away with any distinction between officers and enlisted personnel for the vast majority of duties qualifying for hazardous duty incentive pay, including duty involving exposure to toxic fuels and propellants. Prior to amendment by the

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[3] H.R. Rep. No. 98-107 (Committee on Armed Services), at 210, accompanying H.R. 2969, 98th Cong., 1st sess. (1983). *Cf.* H.R. Rep. No. 98-352 (Committee of Conference), at 224, accompanying S. 675, 98th Cong., 1st Session (1983).

[4] For a history of the different rates of hazardous duty incentive pay authorized under 37 U.S.C. §301 and its predecessor provisions, beginning with the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), see footnote 2 to this chapter, above.

[5] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[6] For a short discussion of the treatment accorded hazardous duty incentive pays under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), see H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, and S. Rep. No. 81-733 (Committee on Armed Services), at 18, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., 37 U.S.C. §301(c)(1) read as follows:

> For the performance of the hazardous duty described in [various clauses of subsection (a) of 37 U.S.C. §301, including exposure to toxic fuels and propellants], an officer is entitled to $110 a month and an enlisted member is entitled to $83 a month.

After amendment by the Department of Defense Authorization Act, 1986, 37 U.S.C. §301(c)(1) read as follows:

> For the performance of hazardous duty described in [the same clauses set out above, including exposure to toxic fuels and propellants], a member is entitled to $110 a month.[7]

Thus, under 37 U.S.C. §301, all members, both officers and enlisted personnel,[8] were entitled to $110 per month for the performance of duty involving exposure to toxic fuels and propellants under qualifying orders.

The legislative history of the Department of Defense Authorization Act, 1986, does not per se indicate the reason for doing away with the distinction between officers and enlisted personnel with respect to the rates of pay authorized for exposure to toxic fuels and propellants. This omission was primarily because no report was ever submitted on the Senate bill, S. 1160, in which the proposal to equalize the rates of toxic fuels and propellants exposure pay for officers and enlisted personnel was made.[9] In fact, however,

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[7] The increase in hazardous duty incentive pay rates for enlisted personnel engaged in personal exposure duties became effective October 1, 1985. See Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(b), at 99 Stat. 583, 648 (1985).

[8] The term "member" is defined in 37 U.S.C. §101(23) to mean "a person appointed or enlisted in, or conscripted into, a uniformed service." As such, "member" includes both officers and enlisted personnel.

[9] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

> ... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.
>
> When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....
>
> Most of Senate Report 99-41 continues to be applicable to this bill....

131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... In addition, the Committee recommended increases or enhancements to a number of special incentive pays....
>
> The special and incentive pays ... involved in these recommendations include:
>
> g. Hazardous duty pays.
>
> Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec.12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither Senate Report No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the hazardous duty incentive pay program in general, or to the toxic

the proposal to equalize officer and enlisted rates of pay for various hazardous duties, including toxic fuels and propellants exposure duties, had been made the preceding year in connection with the consideration of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984). At that time, the Senate Committee on Armed Services, reporting out S. 2723, 98th Cong., 2d sess. (1984), had included a provision that would, among other things, have equalized officer and enlisted rates of hazardous duty incentive pay for toxic fuels and propellants exposure duties.[10] In support of its recommendation, the committee stated:

> The committee proposes that the enlisted and officer rates for several hazardous duty incentive pays be equalized....
>
> The Fifth Quadrennial Review of Military Compensation (QRMC) examined special and incentive pays in great detail. One of its conclusions was that the differential between enlisted and officer rates for seven hazardous duty incentive pays [including toxic fuels and propellants exposure pay] should be eliminated....
>
> The committee agrees that enlisted and officer personnel should be paid the same incentive for exposing themselves to similar hazards. Therefore, it recommends that the rates for these seven hazardous duty pays be changed to entitle both enlisted and officer personnel to $110 per month.[11]

The Senate proposal was eliminated in conference.[12]

As indicated above, the toxic fuels and propellants exposure pay "enhancements" adopted as part of the Department of Defense Authorization Act, 1986, closely parallel recommendations advanced by the Fifth Quadrennial Review of Military Compensation in 1984.[13] In support of its recommendation to "[e]ntitle both officer and enlisted personnel to $110/month for performance of TF&P [toxic fuels and propellants] duties,"[14] the Fifth Quadrennial Review stated:

> The effectiveness of TF&P Pay rates cannot be determined because of the recent authorization of the pay.
>
> Officer and enlisted personnel serving in the TF&P fields should receive equal compensation for exposure to TF&Ps.
>
> An appropriate rate for both officer and enlisted personnel receiving TF&P Pay is $110 per month.[15]

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fuels and propellants exposure pay program in particular, that were contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

[10] See section 148 of S. 2723, 98th Cong., 2d sess. (1984).

[11] S. Rep. No. 98-500 (Committee on Armed Services), at 210 (discussing section 148 of the Senate bill), accompanying S. 2723, 98th Cong., 2d sess. (1984).

[12] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[13] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ...proposing changes" to the compensation system. The Fifth Quadrennial Review of Military Compensation was convened in 1982, pursuant to presidential directive, and its report and recommendations were submitted to Congress in early 1984.

[14] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III*: *Special and Incentive Pays*, November 1983, 200. Also see *id*., 10; and *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-6.

[15] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III*: *Special and Incentive Pays*, November 1983, 200. Also see *id*., 10; *cf., Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-6.

In reaching this conclusion, the Fifth Quadrennial Review also noted:

> The rates of TF&P Pay are identical to the rates for other Hazardous Duty Incentive Pays. The enlisted rate of $83 per month was increased by 50% from $55.00 per month at the same time TF&P Pay was authorized [by the Uniformed Services Pay Act of 1981]. Assuming $83.00 per month was an appropriate value at the time of the 1981 Pay Act, the current rate of TF&P Pay for enlisted members based upon CPI [Consumer Price Index] increases should be roughly $100.00 per month.
>
> Here, the issue of different rates for officer and enlisted personnel should also be addressed. In determining the degree of hazard to which personnel receiving TF&P Pay are exposed, it is difficult, if not impossible, to gauge an exact measure of hazard in comparison to other types of duty. To discern a measurable difference in the degree of hazard to which officers versus enlisted personnel are exposed would prove equally futile. Thus, equal rates of hazard pay for both are believed to be appropriate as each is subjected to the same general degree of hazard. The current officer rate is $110 per month. As previously discussed, $100 per month is believed to be a generally appropriate enlisted rate. In order to avoid reductions in payments to officers, and because the $100 rate was based primarily on a generally increasing CPI, a flat rate of $110 per month for both officer and enlisted is believed appropriate.[16]

In further comment on officer–enlisted differentials for various hazardous duty incentive pays, including duties involving exposure to toxic fuels and propellants, the Fifth Quadrennial Review stated:

> During the process of reviewing the various Hazardous Duty Incentive Pays, it became increasingly clear that, although there is some incentive associated with certain pays, the primary purpose is recognition for the hazards or risks involved. It was, therefore, believed that officer/enlisted personnel should receive the same level of payment for seven of the Hazardous Duty Incentive Pays: [including] ... toxic fuels [and propellants exposure pay]....[17]

In arriving at this conclusion, the Fifth Quadrennial Review implicitly rejected the conclusions reached by the Hook Commission in 1948.[18] In commenting on various arguments that had been advanced in favor of and against continuation of officer–enlisted differentials for hazardous duty incentive pays in general, the Fifth Quadrennial Review summarized the argument against the Hook Commission's position in the following terms:

> The Hook Commission rationale was based primarily on an examination of the needs of the aviation and submarine communities. Times have changed and those communities now have their own separate career incentive pays and bonuses.[19]

Other arguments in favor of eliminating the differential were summarized as follows:

* All personnel, officer and enlisted, experience the same hazards.
* One can never really compensate for risk of life, no matter the level.

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[16] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 198.

[17] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 919. See *id*., 36–37.

[18] See discussion of Hook Commission recommendations concerning officer–enlisted differentials at text accompanying footnotes 5 and 6 to this chapter, above.

[19] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 920; *cf. id*., 37.

* Basic pay and bonuses are adequate to cover any differential.
* Most hazard-related pays now cover skills that are not necessarily career oriented (across all Services); hence, a differential is not necessary for purposes of retention. However, exceptions may occur and should be individually addressed, as required.
* [F]ield interviews [conducted by the Fifth Quadrennial Review of Military Compensation] with both officer and enlisted personnel indicate "same rate for same risk" is perceived as equitable in the hazardous duty areas.[20]

In addition to eliminating officer–enlisted pay differentials for toxic fuels and propellants exposure pay, the Department of Defense Authorization Act, 1986, also extended entitlement to hazardous duty incentive pay under 37 U.S.C. §301(a)(10) to a third category of personnel—namely, personnel involved in "the handling of chemical munitions (or components of such munitions)."[21] For reasons previously discussed,[22] the legislative history of the 1986 Authorization Act does not deal with the reasons for extension of entitlement to toxic fuels and propellants exposure pay to personnel involved in handling chemical munitions. Insofar as can be determined, however, the extension of hazard duty pay to chemical munitions handlers under 37 U.S.C. §301(a)(10) derives from the recommendations of the Fifth Quadrennial Review of Military Compensation[23] to "[i]nclude duty involving the handling of chemical munitions within the definition of hazardous duties."[24] In support of this recommendation, the Fifth Quadrennial Review noted:

> Certain personnel in the chemical munitions field risk exposure to chemicals of an equal or greater toxicity than many highly toxic fuels and propellants for which no Hazardous Duty Incentive Pay entitlement exists.[25]

Expanding on this observation, the Fifth Quadrennial Review went on:

> Personnel assigned to duties requiring the handling of chemical munitions belong to a spectrum of career fields ...Assignments are not made on a volunteer basis and thus, manning shortfalls in these positions do not exist. Department of Defense Civilian Personnel involved in chemical munitions maintenance are paid environmental differentials of 8 or 4 percent, depending on whether the job represents a high or low degree of hazard. Under the current provision of Title 37 [United States Code], military personnel are not entitled to Hazardous Duty Incentive Pay for handling chemical munitions.[26]

Whether for these or some other reasons, Congress, in the Department of Defense Authorization Act, 1986, did in fact eliminate officer–enlisted pay differentials for duties involving exposure to toxic fuels and propellants and also extended entitlement to hazardous duty incentive pay under 37 U.S.C. §301(a)(10)

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[20] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III*: *Special and Incentive Pays*, November 1983, 919–20.

[21] In effecting this amendment, the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., restructured 37 U.S.C. §301(a)(10) by designating the two previous categories of duties qualifying for toxic fuels and propellants exposure pay as clauses (A) and (B), respectively, and the new category of duties as clause (C). See Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., §635(a)(1)B), 99 Stat. 648, and new 37 U.S.C. §301(a)(10)(A), (B), and (C), as amended.

[22] See footnote 9 to this chapter and accompanying text, above.

[23] See footnote 13 to this chapter, above.

[24] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 10 and 200. See *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-6.

[25] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 200. See *id*., 10.

[26] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 199–200.

to personnel handling chemical munitions. Because of this new, broadened scope of entitlements to hazardous duty incentive pay under 37 U.S.C. §301(a)(10), the pay is referred to herein as toxic fuels and propellants and chemical munitions exposure pay. The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1770 (1997), raised the monthly rate for several types of hazardous duty pay covered by 37 U.S.C. 301(c)(1), including pay given for duty involving toxic fuels and propellants and chemical munitions exposure, from $110 to $150. The increase applied to all personnel engaged in this duty.

Reserve forces personnel[27] entitled to compensation for inactive-duty training are technically entitled to toxic fuels and propellants exposure pay when they perform duties "involving (A) the servicing of aircraft or missiles with highly toxic fuels or propellants, (B) the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used, or (C) the handling of chemical munitions (or components of such munitions)" under competent orders, provided Congress has appropriated sufficient funds for that purpose.[28] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying exposure duties while entitled to compensation under 37 U.S.C. §206 are also technically entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[29] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying duties involving exposure to toxic fuels and propellants and chemical munitions under 37 U.S.C. §301(f), also entitled to 1/30th of the toxic fuels and propellants exposure duty pay that would be payable to a member of the active-duty force who was performing such duty. Under regulations, the only personnel entitled to toxic fuels and propellants and chemical munitions exposure pay are personnel whose "primary duty" involves exposure to such hazards, and it is doubtful whether reserve forces personnel performing inactive-duty training could qualify for exposure pay under this provision. In any event, the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay,* Volume 7A, DOD 7000.14-R, makes no provision for entitlement of reserve forces personnel

[27] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[28] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[29] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

to toxic fuels and propellants and chemical munitions exposure pay.[30] Thus, while technically entitled to hazardous duty incentive pay for duty involving exposure to toxic fuels and propellants and chemical munitions under 37 U.S.C. §301, reserve forces personnel would appear to be excluded from such entitlement by regulations prescribed by the President and the Department of Defense.[31] It is always possible, however, that the President may prescribe regulations extending toxic fuels and propellants and chemical munitions exposure pay to reserve forces personnel on inactive-duty training.

Legislative authority to make toxic fuels and propellants and chemical munitions exposure pay technically available to reserve forces personnel engaged in inactive-duty training—independently of whether they could ever in practice actually qualify for it—can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive-duty reserve forces personnel engaged in hazardous duties of one kind or another.[32] In fact, however, duty involving exposure to toxic fuels and propellants and chemical munitions was not covered by the Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled.[33] The first special provision for toxic fuels and propellants exposure duty pay for reserve forces personnel engaged in inactive-duty training came in the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–93 (1981), which, as above noted, brought duty involving exposure to toxic fuels and propellants within the category of duties for which hazardous duty incentive pay was technically authorized for reserve forces personnel performing inactive-duty training. The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §903, 97 Stat. 614, 635 (1983), and the Department of Defense Authorization Act, 1986, expanded the categories of reserve forces personnel for whom exposure pay was technically authorized in connection with the performance of inactive-duty training.

As a practical matter, the 1981 Pay Act and the 1984 and 1986 Authorization Acts had been intended to extend entitlements to toxic fuels and propellants and chemical munitions exposure pay to active-duty personnel performing qualifying duties. The entitlements technically covered reserve forces personnel also because of the way Title 37 of the United States Code was organized. At the time, 37 U.S.C. §301(f) provided that a member of the reserve forces on inactive-duty training was entitled to additional pay for hazardous duty when the member "performs, under orders, any duty described in subsection (a) of this section." Subsection (a), in turn, covered entitlements to hazardous duty incentive pay of active-duty personnel, and it was to that subsection that the entitlements for exposure to toxic fuels and propellants and chemical munitions pay were added. The 1981 Pay Act and the 1984 and 1986 Authorization Acts had simply added a new category of duty for which hazardous duty incentive pay was authorized for active-duty personnel, but the pay was technically available to reserve forces personnel as well under 37 U.S.C. §301(f). Thus, reserve forces personnel on inactive-duty training had in effect "piggybacked" on active-

[30] See *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay,* Volume 7A, DOD 7000.14-R, ¶¶80311-80316, generally (dealing with incentive pay entitlements of members of the reserve forces performing inactive-duty training).

[31] While it is possible that reserve forces personnel are assigned to, and do perform, duty involving exposure to toxic fuels and propellants or chemical munitions during inactive-duty training, it would seem unlikely that they do so "as a primary duty."

[32] For a more complete discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training generally, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)," above.

[33] Subsequent enactments extended both the categories of duties for which, and the categories of personnel to whom, hazardous duty incentive pay was available for inactive-duty training. See Chapter II.D.1.b.(1) hereof, "Flight Duty (Crew Member)," above, for a more complete discussion of the history of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training.

duty personnel insofar as technical entitlement to personal exposure pay was concerned. See discussion of the 1981 Pay Act and the 1984 and 1986 Authorization Acts, above.

In addition to expanding the categories of personnel for whom toxic fuels and propellants and chemical munitions exposure pay was authorized, the Department of Defense Authorization Act, 1986, also amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hour resources.
>
> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP for flying be permitted to credit active duty or inactive duty training flight time to fulfill active or inactive duty flight time requirements.[34]

While the concern that led to the amendment in issue was the appropriate use and apportionment of flying time, the amendment to 37 U.S.C. §301(f) was stated in broader terms, so that it applies to any of the hazardous duties set out in 37 U.S.C. §301(a), including toxic fuels and propellants and chemical munitions exposure duties, and not just flight duty. Thus, for any month in which a member of a reserve force is involved both in active-duty and inactive-duty training for which the member is entitled to hazardous duty incentive pay under 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on the combined entitlement for both active-duty and inactive-duty training.

Until 2003, the conditions of entitlement to special pays for exposure to toxic fuels and propellants and chemical munitions, for both active-duty and reserve personnel, were set out in Section 109(g) of Executive Order 11157, as amended, and in various supplementary regulations adopted by the service Secretaries pursuant to Section 113 of Executive Order 11157. Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to flight deck duty pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments. To the extent reserve forces personnel can claim entitlement to such pays, the language of the current executive order is applicable to them as well.

Current rate of pay: The current rate of pay for duties involving exposure to toxic fuels and propellants and chemical munitions is $150 per month for both officers and enlisted personnel.

Cost: For the cost of compensation for exposure to toxic fuels and propellants and chemical munitions from 1982 to 2016, see table II-16, below.

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[34] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).

Table II-16. Toxic Fuels and Propellants and Chemical Munitions Exposure Pay, 1982–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted Personnel	Cost ($000)
1982	546	$558	45	$59	501	$499
1983	860	877	64	84	796	793
1984	756	779	80	106	676	673
1985	833	851	67	88	766	763
1986	881	1,163	70	92	811	1,071
1987–1995	No data available					
1996	1,006	1,333	59	78	947	1,255
1997	1,072	1,416	59	78	1,013	1,338
1998	963	1,722	47	83	916	1,639
1999	991	1,784	39	70	952	1,714
2000	970	1,746	35	63	935	1,683
2001	847	1,345	36	65	811	1,280
2002	874	1,573	41	74	833	1,499
2003	1,110	1,997	39	70	1,071	1,927
2004	1,833	3,300	34	61	1,799	3,239
2005	3,545	6,381	3,169	5,705	376	676
2006	10,942	19,695	9,909	17,836	1,033	1,859
2007	1,868	3,364	1,083	1,949	785	1,415
2008	797	2,276	24	44	773	2,232
2009	733	1,321	39	71	694	1,250
2010	768	1,381	42	76	726	1,305
2011	662	1,191	27	49	635	1,142
2012	625	1,126	21	39	604	1,087
2013	527	946	16	30	511	916
2014	459	829	20	37	439	792
2015	457	823	15	27	442	796
2016[1]	448	805	15	27	443	778

[1] Estimate.

FY15 and FY16 do not include the Army officers.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*..

Chapter II.D.3.a.
Submarine Duty Incentive Pay

Legislative Authority: 37 U.S.C. §301c.

Purpose: To provide an additional pay to increase the Navy's ability to attract and retain volunteers for submarine duty, and to compensate for the more than normally dangerous character of such duty.

Background: Extra pay of $5 a month for submarine service was authorized for enlisted members by an Executive Order of January 1, 1901, soon after the commissioning of the first submarine in October 1900. Executive Order No. 366-B of November 8, 1905, provided that, in addition to the $5 a month, enlisted personnel who were "qualified for submarine torpedo boat work" were entitled to $1 for each day they submerged in a submarine, not to exceed an additional $15 in any one month.

A 1971 special study of the historical development of submersible duty pay commissioned by the Department of Defense concluded that the $5 monthly component of such pay was awarded to enable enlisted personnel "to purchase new dungarees to replace those ruined by battery acid."[1] Though the uncommon wear and tear on clothing inherent in submarine duty may well have inspired the pay, its announced purpose was to compensate for the arduous and hazardous nature of submarine duty. As the Comptroller of the Treasury put it, "[T]he $5 was provided on account of the hazardous character of service on board this type of vessel and the $1 per day was to be given for experience and skill as well as on account of hazardous service."[2] A Navy representative voiced a similar rationale for the pay in testifying on a bill to raise the rates of submersible duty pay:

> Every man on the submarine gets $5 a month extra now—every man; and in addition, those who are qualified get a dollar a day per dive, not to exceed $15 per month....
>
> Now, that provides for the risk of all hands that go down with submarines, and in addition, pays an extra compensation to the qualified men who do the work in diving.[3]

Congress first took cognizance of the desirability of offering a special payment for submarine duty in the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §21, 42 Stat. 625, 633 (1922), by providing that "nothing in this Act shall operate to change in any way existing laws, or regulations ... governing ... extra pay to enlisted men ... engaged in ... service on submarines." The Act of April 9, 1928, ch. 327, Pub. L. No. 70-244, 45 Stat. 412 (1928), authorized submarine duty pay of 25 percent of base and longevity pay for officers and not less than $5 nor more than $30 a month for enlisted personnel. The $5 floor was adopted to ensure that all enlisted submariners would be compensated, at least to some extent, for the hazards of their duty, regardless of their special qualifications. The Act of August 4, 1942, ch. 546, Pub. L. No. 77-697, 56 Stat. 736 (1942), set submarine duty pay at 50 percent of base and longevity pay for both officers and enlisted personnel.[44] This latter act brought the rate of pay for submarine duty up to that for flight duty, thereby reflecting Congress's view that the hazards of submarine duty and flying duty were equivalent.

In 1948, at the request of the Secretary of Defense, the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission, undertook the first comprehensive study of the military pay system since 1908. In reviewing military pay generally, and submarine duty pay in particular, the Hook Commission concluded that, although special pays such as submarine duty pay were designed in part to

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[1] *Report of the 1971 Quadrennial Review of Military Compensation*, December 1971, I.1.
[2] 19 Comp. Dec. (Treasury) 468 (1913).
[3] *Hearing of February 2, 1927, on the Bill (H.R. 14251) "To Provide for Enlisted Men of the United States Navy Assigned to Duty on Submarine Vessels of the Navy,"* printed in *Hearings before the House Naval Affairs Committee on Sundry Legislation Affecting the Naval Establishment*, 1926–27, 69th Cong., 2d sess., 688 (1927) (testimony of Rear Admiral Edward H. Campbell, USN, Judge Advocate General of the Navy).
[4] For base and longevity pay rates by pay grade in 1942, see Basic Pay Schedule set out above in this volume.

compensate for arduous and hazardous duties, their main purpose should be to fill a supply–demand function—to induce personnel to enter upon and remain in hazardous military occupations. The commission's rationale was expressed in these terms:

> Close examination of the nature of hazardous duty and the expressed or implied reasons for accepting risks indicated that the incentive to engage and remain in hazardous occupations provided a more realistic and practical basis for determining the rates of special pay than the theory of recompense for shorter career expectancy. The recompense or replacement concept, although promoted for many years as the sole argument for hazard pay, was found wanting for several reasons.[5]

The Hook Commission's rationale for higher submarine duty pay rates for officers than for enlisted personnel, which was subsequently reflected in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802, 809–10 (1949), was that:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.
>
> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.
>
> (3) Officers are usually given greater special responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.[6]

Under the Hook Commission recommendations, submarine duty pay was paired with crew member flight pay, and the rates for these two pays ranged from $30 monthly for pay grade E-1, through $75 for pay grade E-7, and $100 for pay grade O-1, up to $210 for pay grade O-6.[7] With respect to the special treatment accorded flight and submarine duty pays as compared with other types of incentive pay, the commission noted:

> A separate scale was developed for flying and submarine duty, compensable today at 50 percent of pay. Because of the demonstrated greater actual or potential danger and the supreme importance of these services, the inducement must be greater. The Commission's proposals maintain approximately the same dollar differential for these duties as now exists except in the general officer ranks. This differential, plus the proposed basic compensation, should be adequate to attract and keep men in these pursuits at the grade and age at which, in the Commission's opinion, based on present practice, they are most effective.[8]

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[5] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 24.

[6] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[7] The Hook Commission recommended that officers in pay grades O-7 and O-8 receive $100 per month on account of submarine duty. See *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, Table XI, 27.

[8] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 26.

Congress adopted the major portion[9] of the Hook Commission's reasoning and recommendations concerning submarine duty incentive pay in the Career Compensation Act of 1949, ch. 681, *id*., referred to above, and it is this act that is the effective source of existing submarine duty pay authority.[10] The Career Compensation Act provisions concerning submarine duty pay were, however, amended by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(5), 69 Stat. 18, 20–21 (1955), through the introduction of longevity step increments into the incentive pay structure.[11] In addition, the Career Incentive Act of 1955, ch. 20, *id*., increased the rates of pay for submarine duty along with those for other "hazardous" duties. During the hearings on the 1955 legislation, defense witnesses again emphasized the incentive-based purpose of the pay:

> So long as these [flying and submarine] services must be staffed by volunteers the incentives offered must be enough to attract and retain the numbers required to maintain peak performance capabilities.[12]
>
> My comments concerning personnel losses have been confined to flying personnel; however, in the Navy, the submarine service, too, has experienced considerable difficulty in recruiting and retaining qualified personnel.... Resignations among submarine officers are five times as high as they were in 1948 and applications for this type of duty have sharply decreased.[13]

The submarine duty pay rates established in 1955 ranged from a low of $50 a month for members in pay grades E-1 or E-2 with less than two years of service to a high of $245 for members in pay grades O-5 or O-6 with more than 18 years of service. Under the system of submarine duty pay in effect until January 1, 1981, a member required by competent orders to perform submarine duty was entitled to submarine duty pay starting on (1) the date the member reported for duty aboard an active submarine or one under construction, or (2) the date the member reported to the crew or off-ship augment crew of a two-crew submarine, or (3) the convening date of a class of submarine instruction for personnel qualified in submarines (Navy ships carrying the designation SS). Entitlement stopped on the day after detachment, or the last day of instruction, as the case may be. In addition, a command staff member whose duties required service on a submarine during underway operations was entitled to monthly submarine duty pay for meeting minimum underway performance requirements of 48 hours a month.

In 1980, Congress, through the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §3(d), 94 Stat. 3359, 3360–3364 (1980), as technically amended by the Department of Defense Supplemental Authorization Act, 1981, Pub. L. No. 97-39, §701, 95 Stat. 939, 942 (1981), changed the

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[9] The rates of pay differed to some extent from those recommended by the Hook Commission. Compare, e.g., Section 204(b) of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(b), 63 Stat. 802, 810 (1949), with Table XI of the Hook Commission's Report, *Career Compensation for the Uniformed Services*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[10] After enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(b), 63 Stat. 802, 810 (1949), the hazardous duty incentive pay provisions thereof, including submarine duty pay, were in the main classified to 37 U.S.C. §235. See 37 U.S.C. §235(a)(1) and (b) (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the hazardous duty pay provisions, including the submarine duty pay provisions here in issue, were codified at 37 U.S.C. §301.

[11] Hazardous duty incentive pay rates for submarine duty were the same as hazardous duty incentive pay rates for the precursor of today's crew-member flight duty under both the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(b), 63 Stat. 802, 809–10 (1949), and the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(5), 69 Stat. 18, 20–21 (1955). The rates of pay under the Career Compensation Act of 1949 and the Career Incentive Act of 1955 are set out above in this volume.

[12] *Career Incentive Act of 1955: Hearings on H.R. 2607 before Subcommittee No. 2 of the House Armed Services Committee*, 84th Cong., 1st sess. , 478 (1955) (testimony of Asst. Sec. Carter Burgess, Department of Defense).

[13] *Career Incentive Act of 1955: Hearings on H.R. 2607 before Subcommittee No. 2 of the House Armed Services Committee*, 84th Cong., 1st sess., 520 (1955) (testimony of General Morris F. Lee, USAF).

entire basis for the payment of special compensation for submarine duty. In simplest terms, the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., replaced the preexisting provisions for submarine duty pay found in 37 U.S.C. §301 with a new structure for submarine career incentive pay patterned after aviation career incentive pay, thus maintaining the parallel treatment established in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949). Under the new system, set out at 37 U.S.C. §301c, submarine duty incentive pay may be paid continuously to members who hold a submarine duty designator, or are in training leading to such designation, and who remain in submarine service on a career basis.[14] That is, so long as a member continues to qualify, as explained more fully below, that member is entitled to submarine duty incentive pay even when not assigned to, or performing, operational submarine duty. In addition, personnel who do not have submarine designators, such as supply, medical, and intelligence personnel, are entitled to submarine duty incentive pay during periods they are required to perform "frequent and regular operational submarine duty." As set out in the statute, entitlement to continuous submarine duty incentive pay—for personnel with career designation—turns on meeting certain standards concerning performance of "operational submarine duty," not on actual performance of such duty within any particular time period.

The standards governing entitlement to continuous submarine duty incentive pay are similar to the operational flying time standards, or "gates," used for determining entitlement to aviation career incentive pay. The general rule for entitlement to continuous monthly submarine duty incentive pay is that a member must perform qualifying "operational submarine duty," as defined under 37 U.S.C. §301c(a)(5)(A), for at least six of the first 12, and at least 10 of the first 18, years of "submarine service," as defined at 37 U.S.C. §301c(a)(5)(B), if the member is to receive such pay through 26 years of creditable service. On the other hand, if a member performs at least eight but fewer than 10 years of qualifying service during the first 18 years of submarine service, the member is nevertheless entitled to continuous monthly submarine duty incentive pay through 22 years of service.[15] If a member fails to meet such standards, entitlement to continuous submarine duty incentive pay ceases upon completion of 12 or 18 years of service, as applicable, although the member is still entitled to operational submarine duty incentive pay—even though not on a "continuous," i.e., independent of assignment, basis—whenever the member actually performs "operational submarine duty" within the meaning of 37 U.S.C. § 301c(a)(5)(A).

In explanation of this change to the submarine duty pay system, the Senate Committee on Armed Services noted:

> The committee amendment recommends approval of the new submarine duty pay rates proposed by the Administration and that the submarine duty pay for officers be converted to an incentive pay, similar to flight pay. A submarine officer will be continuously eligible for the incentive pay, provided specified amounts of operational submarine duty are accumulated. As long as he meets those operational requirements on a regular and frequent basis, he will receive the submarine duty incentive pay, even when assigned to shore duty.
>
> The Administration's proposal did not recommend converting enlisted submarine pay into continuous incentive-type pay. However, the committee recommends that enlisted

[14] Emphasizing the "career" aspect of the new submarine duty incentive pay program, specific provisions were incorporated into 37 U.S.C. § 301c prohibiting payment of submarine duty incentive pay to officers who fail of selection for assignment as executive officers or commanding officers of submarines, or who decline such service, as well as to enlisted members assigned to shore duty who do not have sufficient time remaining under existing enlistments to be reassigned to a normal tour of submarine sea duty. See e.g., 37 U.S.C. § 301c(c)(1) and (2). *Cf.* S. Rep. No. 96-1051 (Committee on Armed Services), at 4, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[15] A qualifying officer with prior enlisted service is entitled to such pay for a full 22 or 26 years of officer service, as applicable. That is, if a qualifying officer has prior enlisted service, that service may be discounted in determining how long the officer may continue to receive operational submarine duty incentive pay. See 37 U.S.C. §301c(a)(3) and (4), as amended by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §114, 95 Stat. 989, 995 (1981).

> submariners receive submarine pay on the same basis as officers—that is, as an incentive pay—which the enlisted member will receive whether or not he is assigned to the submarine, as long as he meets specific operational requirements on a frequent and regular basis.
>
> Under current law, officers and enlisted members who serve on submarines and meet specific operational requirements are paid a monthly special pay. The Committee recommendation continues this special pay and increases the rates of pay. In addition, members who hold a submarine duty designator and who are in and remain in the submarine service on a career basis will be paid continuous monthly submarine duty incentive pay for the regular and frequent performance of operational submarine duty required by orders. Officers who fail selection for assignment as a submarine executive officer or commanding officer or who decline to serve in either such billet and enlisted members who do not have sufficient obligated service to be reassigned to submarine sea duty are not eligible for continuous submarine duty incentive pay.[16]

The rates of submarine duty incentive pay under the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., were as follows:

COMMISSIONED OFFICERS
Years of Service Computed Under Section 205 of Title 37, United States Code

Pay Grade	**2 OR LESS**	**OVER 2**	**OVER 3**	**OVER 4**	**OVER 6**	**OVER 8**	**OVER 10**
O-10	$265	$265	$265	$265	$265	$265	$265
O-9	265	265	265	265	265	265	265
O-8	265	265	265	265	265	265	265
O-7	265	265	265	265	265	265	265
O-6	440	440	440	440	440	440	440
O-5	440	440	440	440	440	440	440
O-4	270	270	270	300	440	440	440
O-3	265	265	265	290	440	440	440
O-2	175	175	175	175	175	175	265
O-1	130	130	130	130	130	130	265

Pay Grade	**OVER 12**	**OVER 14**	**OVER 16**	**OVER 18**	**OVER 20**	**OVER 22**	**OVER 26**
O-10	$265	$265	$265	$265	$265	$265	$265
O-9	265	265	265	265	265	265	265
O-8	265	265	265	265	265	265	265
O-7	265	265	400	395	395	305	265
O-6	440	440	440	395	395	305	265
O-5	440	440	440	395	395	350	265
O-4	440	440	440	395	395	350	265
O-3	440	440	440	395	395	350	265
O-2	265	265	265	265	265	265	265
O-1	265	265	265	265	265	265	265

[16] S. Rep. No. 96-1051 (Committee on Armed Services), at 4, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

WARRANT OFFICERS

Pay Grade	Years of Service Computed Under Section 205 of Title 37, United States Code						
	2 OR LESS	**OVER 2**	**OVER 3**	**OVER 4**	**OVER 6**	**OVER 8**	**OVER 10**
W-4	$175	$230	$230	$230	$265	$265	$265
W-3	175	230	230	230	265	265	265
W-2	175	230	230	230	265	265	265
W-1	175	230	230	230	265	265	265

Pay Grade	**OVER 12**	**OVER 14**	**OVER 16**	**OVER 18**	**OVER 20**	**OVER 22**	**OVER 26**
W-4	$265	$265	$265	$265	$265	$265	$265
W-3	265	265	265	265	265	265	265
W-2	265	265	265	265	265	265	265
W-1	265	265	265	265	265	265	265

ENLISTED MEMBERS

Pay Grade	Years of Service Computed Under Section 205 of Title 37, United States Code						
	2 OR LESS	**OVER 2**	**OVER 3**	**OVER 4**	**OVER 6**	**OVER 8**	**OVER 10**
E-9	$165	$165	$165	$200	$220	$230	$235
E-8	165	165	165	185	200	220	230
E-7	165	165	165	185	190	195	205
E-6	115	125	130	160	170	180	190
E-5	105	115	115	130	140	145	145
E-4	60	70	75	125	130	130	130
E-3	60	65	70	70	105	65	65
E-2	55	65	65	65	65	65	65
E-1	55	55	55	55	55	55	55

Pay Grade	**OVER 12**	**OVER 14**	**OVER 16**	**OVER 18**	**OVER 20**	**OVER 22**	**OVER 26**
E-9	$245	$255	$265	$265	$265	$265	$265
E-8	235	245	245	255	255	255	255
E-7	220	230	230	230	230	230	230
E-6	195	195	195	195	195	195	195
E-5	145	145	145	145	145	145	145
E-4	130	130	130	130	130	130	130
E-3	65	65	65	65	65	65	65
E-2	65	65	65	65	65	65	65
E-1	55	55	55	55	55	55	55

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §633, 99 Stat. 583, 646 (1985), modified the structure of submarine duty incentive pay for officers in pay grades O-3 through O-6 with more than 18 years of service. Under the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id.*, entitlements to submarine duty incentive pay for officers in pay grades O-3 through O-6

began to decrease for officers with more than 18 years of service.[17] These decreases effectively followed the decreases programmed into aviation career incentive pay, upon which submarine duty incentive pay had initially been patterned.[18] Under the amendment to submarine duty incentive pay effected by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., the programmed decreases in entitlements for officers in pay grades O-3 through O-6 with more than 18 years of service were eliminated, and the entitlement levels applicable to officers in the affected pay grades with more than 16 years, but fewer than 18 years, of qualifying service were continued for all further years-of-service categories—that is, for the over-18-years-of-service category, for the over-20 category, for the over-22 category, and, finally, for the over-26 category. Thus, under the amendment to the submarine duty incentive pay program made by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., the rates of pay for commissioned officers were as follows:

COMMISSIONED OFFICERS
Years of Service Computed Under Section 205 of Title 37, United States Code

Pay Grade	**2 OR LESS**	**OVER 2**	**OVER 3**	**OVER 4**	**OVER 6**	**OVER 8**	**OVER 10**
O-10	$265	$265	$265	$265	$265	$265	$265
O-9	265	265	265	265	265	265	265
O-8	265	265	265	265	265	265	265
O-7	265	265	265	265	265	265	265
O-6	440	440	440	440	440	440	440
O-5	440	440	440	440	440	440	440
O-4	270	270	270	300	440	440	440
O-3	265	265	265	290	440	440	440
O-2	175	175	175	175	175	175	265
O-1	130	130	130	130	130	130	265

Pay Grade	**OVER 12**	**OVER 14**	**OVER 16**	**OVER 18**	**OVER 20**	**OVER 22**	**OVER 26**
O-9	265	265	265	265	265	265	265
O-8	265	265	265	265	265	265	265
O-7	265	265	400	395	395	305	265
O-6	440	440	440	440	440	440	440
O-5	440	440	440	440	440	440	440
O-4	440	440	440	440	440	440	440
O-3	440	440	440	440	440	440	440
O-2	265	265	265	265	265	265	265
O-1	265	265	265	265	265	265	265

The rates of submarine duty incentive pay for enlisted members, warrant officers, and officers in pay grades other than O-3 through O-6 were not affected by the Department of Defense Authorization Act,

[17] See rates of submarine duty incentive pay for officers in pay grades O-3 through O-6 as set out in the table on the preceding page.

[18] See discussion of the aviation career incentive pay program and the structure of that pay for so-called Phase II officers in Chapter II.D.1.b.(3), "Aviation Career Incentive Pay (ACIP) and Aviation Career Continuation Pay (AOCP)," above.

1986, Public Law 99-145, *id*. The new rates of pay for officers in pay grades O-3 through O-6 became effective October 1, 1985.[19]

As explained in the report of the House Committee on Armed Services, the structure of the submarine duty incentive pay program was modified for officers in the affected pay grades for the following reasons:

> The shortage of experienced submarine officers in pay grades O-4 through O-6 is becoming critical.... Requiring back -to-back sea tours with the abandonment of more traditional career pattern opportunities only exacerbates the situation.
>
> Under the current structure, submarine career incentive pay is reduced when an officer completes 18 years of service and is again reduced when he is promoted to captain [Navy pay grade O- 6]. These reductions usually occur during an officer's command tour and again during his post command tour. Thus, submarine pay for the commanding officer of a submarine is reduced during his command tour to levels below that received by his executive officer and department heads. Additionally, post command tours are required because a number of billets can only be filled by officers with nuclear submarine command experience.
>
> The committee, therefore, recommends a change in the current structure of nuclear submarine incentive pay to eliminate the reduction in the level of this incentive pay upon completion of 18 years of service and upon promotion to captain. This revision will more effectively target the severe shortage of submarine officers in pay grades O-4 to O-6.[20]

As ultimately enacted by Congress, the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., also eliminated the reduction in submarine duty incentive pay for officers in pay grade O-3 that was implicit in the structure of the program deriving from the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*.[21] Thus, under the 1986 restructuring of submarine duty incentive pay, the only commissioned officers subject to a reduction in the level of submarine pay with increasing years of service were officers in pay grade O-7, i.e., rear admirals of the lower half. In addition, an officer in pay grade O-6 who was promoted to pay grade O-7 was subject to a reduction in submarine duty incentive pay.[22]

The rates of submarine duty incentive pay were again increased by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §623(b), 101 Stat. 1019, 1101–1103 (1987). The rates of submarine duty incentive pay that became effective January 1, 1988, were as follows:[23]

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[19] See Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §633(b), 99 Stat. 583, 646 (1985). Also see 37 U.S.C. §301c note.

[20] H.R. Rep. No. 99-81 (Committee on Armed Services), at 231–32, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[21] Although the House report did not specifically deal with officers in pay grade O-3, the bill, H.R. 1872, 99th Cong., 1st sess. (1985), that was accompanied by the report did in fact eliminate the reduction in submarine duty incentive pay for officers in pay grade O-3. See H.R. Rep. No. 99-81 (Committee on Armed Services), at 404, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[22] These reductions still obtain under the current rates of submarine duty incentive pay adopted in the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §623(b), 101 Stat. 1019, 1101–1103 (1987). See current rates of submarine duty incentive pay, set out in this chapter, below.

[23] The Warrant Officer Management Act, enacted as Title XI of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, 105 Stat. 1290, 1491–1506 (1991), established the new warrant officer pay grade, W-5 [National Defense Authorization Act for Fiscal Years 1992 and 1993, *id*., §1111(a), 105 Stat. 1491], and authorized members serving in that pay grade to receive submarine duty incentive pay at the monthly rates set out on the lines relating to that pay grade in the table below [National Defense Authorization Act for Fiscal Years 1992

COMMISSIONED OFFICERS
Years of Service Computed Under Section 205 of Title 37, United States Code

Pay Grade	2 OR LESS	OVER 2	OVER 3	OVER 4	OVER 6	OVER 8	OVER 10
O-10	$355	$355	$355	$355	$355	$355	$355
O-9	335	335	335	335	335	335	335
O-8	335	335	335	335	335	335	335
O-7	335	335	335	335	335	335	335
O-6	595	595	595	595	595	595	595
O-5	595	595	595	595	595	595	595
O-4	365	365	365	405	595	595	595
O-3	355	355	355	390	595	595	595
O-2	235	235	235	235	235	235	355
O-1	175	175	175	175	175	175	355

Pay Grade	OVER 12	OVER 14	OVER 16	OVER 18	OVER 20	OVER 22	OVER 26
O-10	$335	$335	$335	$335	$335	$335	$335
O-9	335	335	335	335	335	335	335
O-8	335	335	335	335	335	335	335
O-7	335	335	540	535	535	410	335
O-6	595	595	595	595	595	595	595
O-5	595	595	595	595	595	595	595
O-4	595	595	595	595	595	595	595
O-3	595	595	595	595	595	595	595
O-2	355	355	355	355	355	355	355
O-1	355	355	355	355	355	355	355

WARRANT OFFICERS
Years of Service Computed Under Section 205 of Title 37, United States Code

Pay Grade	2 OR LESS	OVER 2	OVER 3	OVER 4	OVER 6	OVER 8	OVER 10
W-5	$235	$310	$310	$355	$355	$355	$355
W-4	235	310	310	355	355	355	355
W-3	235	310	310	355	355	355	355
W-2	235	310	310	355	355	355	355
W-1	235	310	310	355	355	355	355

Pay Grade	OVER 12	OVER 14	OVER 16	OVER 18	OVER 20	OVER 22	OVER 26
W-5	$355	$355	$355	$355	$355	$355	$355
W-4	355	355	355	355	355	355	355
W-3	355	355	355	355	355	355	355
W-2	355	355	355	355	355	355	355

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and 1993, *id*., §1111(d)(2), 105 Stat. 1492]. For the reasons underlying the establishment of the new pay grade, see footnote 13 to Chapter II.B.1 hereof, above, "Basic Pay."

W-1	355	355	355	355	355	355	355

ENLISTED MEMBERS
Years of Service Computed Under Section 205 of Title 37, United States Code

Pay Grade	**2 OR LESS**	**OVER 2**	**OVER 3**	**OVER 4**	**OVER 6**	**OVER 8**	**OVER 10**
E-9	$225	$225	$225	$270	$295	$310	$315
E-8	225	225	225	250	270	295	310
E-7	225	225	225	250	255	265	275
E-6	155	170	175	215	230	245	255
E-5	140	155	155	175	190	195	195
E-4	80	95	100	170	175	175	175
E-3	80	90	100	170	175	175	90
E-2	75	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

Pay Grade	**OVER 12**	**OVER 14**	**OVER 16**	**OVER 18**	**OVER 20**	**OVER 22**	**OVER 26**
E-9	$330	$345	$355	$355	$355	$355	$355
E-8	315	330	330	345	345	345	345
E-7	295	310	310	310	310	310	310
E-6	265	265	265	265	265	265	265
E-5	195	195	195	195	195	195	195
E-4	175	175	175	175	175	175	175
E-3	90	90	90	90	90	90	90
E-2	90	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

The restructuring of submarine duty incentive pay rates effected by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, *id.*, came about as a result of recommendations made to Congress by the Department of Defense. As indicated by the Senate Armed Services Committee:

> The Department of Defense requested that submarine duty pay be increased in value by 35 percent to restore its retention incentive. Currently, submariners spend on the average of 15 to 16 years of their first 20 year [*sic*] of service at sea. Submarine duty pay recognizes this and serves to provide a monetary incentive to offset to some extent the career disincentive of unusually arduous duty and prolonged family separation. The committee recommends a provision ... restoring this incentive to approximately the same level it held for members when it was first authorized in 1980.[24]

As was the case when Congress adopted aviation career incentive pay in the Aviation Career Incentive Act of 1974, Pub. L. No. 93-294, 88 Stat. 177 (1974), and as made clear in the relevant congressional report in the present case, submarine duty incentive pay was adopted to deal with what Congress thought to be real and significant retention problems in the submarine service.[25] In the perception

[24] S. Rep. No. 100-57 (Committee on Armed Services), at 146, accompanying S. 1174, 100th Cong., 1st sess. (1987); *cf*. H.R. Rep. No. 100-446 (Committee of Conference), at 644, 100th Cong., 1st sess. (1987).
[25] S. Rep. No. 96-1051 (Committee on Armed Services), at 3–4, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

of the Senate Armed Services Committee, there was a "critical shortage" of career personnel in the submarine service—officer as well as enlisted—and

> [T]he extension of submarine duty pay to a continuous incentive pay to include those years spent on shore duty will increase the attractiveness of the submarine career path, which will continue to remain dominated by sea duty, and should increase retention.[26]

This language made the incentive-based nature of submarine duty incentive pay for members of the career submarine service clear beyond doubt.

The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1137 (2001), changed the authority for setting rates for submarine duty incentive pay set out in 37 U.S.C. 301c(b). Whereas before this change Congress had established pay rates for each level of service and pay grade, beginning January 1, 2002, the Secretary of the Navy had the authority to prescribe these rates, which could not exceed $1,000 per month. Thus the table of rates given in 37 U.S.C. 301c(b) was abolished in favor of a table issued by the Department of the Navy, whose authority in this matter was prescribed in a revision of that subsection of U.S.C. 37. The pay tables below are those issued by the Department of the Navy in January 2003 in response to this revision.

COMMISSIONED OFFICERS
Years of Service Computed Under Section 205 of Title 37, United States Code

Pay Grade	2 OR LESS	OVER 2	OVER 3	OVER 4	OVER 6	OVER 8	OVER 10
O-10	$355	$355	$355	$355	$355	$355	$355
O-9	355	355	355	355	355	355	355
O-8	355	355	355	355	355	355	355
O-7	355	355	355	355	355	355	355
O-6	595	595	595	595	595	595	595
O-5	595	595	595	595	595	595	595
O-4	365	365	365	525	595	595	595
O-3	355	355	355	510	595	595	595
O-2	305	305	305	305	305	305	425
O-1	230	230	230	230	230	230	425

Pay Grade	OVER 12	OVER 14	OVER 16	OVER 18	OVER 20	OVER 22	OVER 26
O-10	$355	$355	$355	$355	$355	$355	$355
O-9	355	355	355	355	355	355	355
O-8	355	355	355	355	355	355	355
O-7	355	355	540	535	535	410	355
O-6	595	595	595	595	595	595	595
O-5	595	595	595	595	595	595	595
O-4	595	595	595	595	595	595	595
O-3	595	425	425	425	425	425	425
O-2	425	595	595	595	595	595	595
O-1	425	595	595	595	595	595	595

[26] S. Rep. No. 96-1051 (Committee on Armed Services), at 4, accompanying H.R. 7626, 96th Cong., 2d sess. (1980); *cf.* text accompanying footnote 16, above, quoted from S. Rep. No. 96-1051 (Committee on Armed Services), at 4, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

WARRANT OFFICERS
Years of Service Computed Under Section 205 of Title 37, United States Code

Pay Grade	2 OR LESS	OVER 2	OVER 3	OVER 4	OVER 6	OVER 8	OVER 10
W-5	$285	$375	$375	$425	$425	$425	$425
W-4	285	375	375	425	425	425	425
W-3	285	375	375	425	425	425	425
W-2	285	375	375	425	425	425	425
W-1	285	375	375	425	425	425	425

Pay Grade	OVER 12	OVER 14	OVER 16	OVER 18	OVER 20	OVER 22	OVER 26
W-5	$425	$425	$425	$425	$425	$425	$425
W-4	425	425	425	425	425	425	425
W-3	425	425	425	425	425	425	425
W-2	425	425	425	425	425	425	425
W-1	425	425	425	425	425	425	425

ENLISTED MEMBERS
Years of Service Computed Under Section 205 of Title 37, United States Code

Pay Grade	2 OR LESS	OVER 2	OVER 3	OVER 4	OVER 6	OVER 8	OVER 10
E-9	$425	$425	$425	$425	$425	$425	$425
E-8	415	415	415	415	415	415	415
E-7	405	405	405	405	405	405	405
E-6	155	170	175	300	325	375	375
E-5	140	155	155	250	275	275	275
E-4	80	95	100	245	245	245	245
E-3	80	90	95	95	90	90	90
E-2	75	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

Pay Grade	OVER 12	OVER 14	OVER 16	OVER 18	OVER 20	OVER 22	OVER 26
E-9	$425	$425	$425	$425	$425	$425	$425
E-8	415	415	415	415	415	415	415
E-7	405	405	405	405	405	405	405
E-6	375	375	375	375	375	375	375
E-5	275	275	275	275	275	275	275
E-4	245	245	245	245	245	245	245
E-3	90	90	90	90	90	90	90
E-2	90	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

Reserve forces personnel[27] entitled to compensation for inactive-duty training are entitled to submarine duty incentive pay when they perform qualifying duties under competent orders. Under 37 U.S.C. §301c(d), members of the reserve forces who perform, under competent orders, "duty on a submarine during underway operations" while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in ...compensation equal to one-thirtieth of the monthly incentive pay" payable to active-duty personnel performing qualifying duties.[28] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying submarine duty under 37 U.S.C. §301c(d), also entitled to 1/30th of the monthly submarine duty incentive pay that would be payable to a member of the active-duty force who was performing such duties. Under regulations prescribed by the President, a member of a reserve force who performs qualifying submarine duties while engaged in inactive-duty training is entitled to submarine duty incentive pay under 37 U.S.C. §301c(d).[29]

Submarine duty incentive pay for reserve forces personnel can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided special compensation for inactive-duty reserve forces personnel engaged in hazardous duties of one kind or another. In fact, however, incentive pay for submarine duty was not covered by the Army Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50 percent increase in the "armory drill pay" to which they would otherwise have been entitled.[30]

Reserve forces personnel of the Navy were first authorized hazardous duty incentive pay while engaged in inactive-duty training by the Naval Reserve Act of 1938, ch. 690, Pub. L. No. 75-732, §313, 52 Stat. 1175, 1184 (1938). This act extended flight pay for inactive-duty training to "[o]fficers and enlisted men of the Naval Reserve ... performing aerial flights in the capacity of pilots ... as a part of their training." Members of the Marine Corps Reserve were covered by a separate provision that gave such members the same benefits as conferred on members of the Naval Reserve.[31]

The Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), substantially reorganized the provisions of preceding law relating to inactive-duty training pay for reserve forces personnel. Section 3 of the Act of March 25, 1948, ch. 157, *id*., §3(c), 62 Stat. 88–89, amended Section 14

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[27] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[28] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training," which is defined for purposes of Title 37, United States Code, at 37 U.S.C. §101(22), is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[29] See *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, Paragraph 80314; *cf. id*., Paragraph 80311.

[30] For a more complete discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training generally, see Chapter II.D.1.b.(1), "Flight Pay (Crew Member)," above.

[31] Naval Reserve Act of 1938, ch. 690, Pub. L. No. 75-732, §2, 52 Stat. 1175 (1938).

of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14, 56 Stat. 359, 367 (1942), to give "officers, warrant officers, and enlisted personnel" of all the reserve forces entitlement to special pay for "perform[ing] ... submarine duty," among other things. As stated in the House report:

> The purpose of the bill is to standardize inactive training pay for all Reserve components of the various services and also to grant such inactive duty training pay to Army Reservists.
>
> . . .
>
> The committee considers the need for this pay to be apparent, even though it is unfortunate that the country must resort to it. The Army and Navy must maintain active Reserve components, or else, in time of war emergency, the Nation will have to depend exclusively upon the Regular services for its defense. They are patently incapable of doing such a job alone. So, in order to vitalize the National Guard and Reserve components, to get more people to participate so that they will fit promptly and effectively into the mobilization-day plans of the Armed Forces, inactive duty pay is to be given each participant at the rate of one-thirtieth of 1 month's base and longevity pay for each training period.... Such specialists as pilots, radar technicians, medical people, and so forth, will also be able to earn inactive duty training pay when the standards specified by the Secretaries [of the various departments] are met.[32] [33]

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), restated the provisions of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, 56 Stat. 359 (1942), as amended by the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), insofar as the entitlement of reserve forces personnel to special pay for the performance of hazardous duties was concerned. Section 501 of the Career Compensation Act of 1949, ch. 681, *id*., §501, 63 Stat. 825–27, dealt generally with the entitlement of reserve forces personnel to compensation for inactive-duty training. Subsection (d) of Section 501, 63 Stat. 826, generalized the entitlements to hazardous duty incentive pay of reserve forces personnel performing inactive-duty training by providing that hazardous duty incentive pay was available to such personnel whenever they were required by competent orders to perform any of the hazardous duties, set out at Section 204(a) of the Career Compensation Act of 1949, ch. 681, *id*., §204(a), 63 Stat. 810, for which active-duty personnel were entitled to hazardous duty incentive pay. The duties set out in Section 204(a) as qualifying for such pay included crew member and non-crew member flight duties, submarine duties, glider duties, parachute jumping duties, leprosy duties, explosives demolition duties, duty at a submarine escape training tank, and duty with certain diving units. See Section 204(a) of the Career Compensation Act of 1949, ch. 681, id., §204(a), 63 Stat. 809–10.[34] No special reason was given for this

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[32] H.R. Rep. No. 80-971 (Committee on Armed Services), at 1–2, accompanying H.R. 3227, 80th Cong., 1st sess. (1947). See S. Rep. No. 80-625 (Committee on Armed Services), at 1, accompanying S. 1174, 80th Cong., 1st sess. (1947).

[33] Section 14(c) of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14(c), 56 Stat. 359, 367 (1942), as amended by Section 3 of the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, §3, 62 Stat 87, 88–89 (1948), extended special pay to "personnel required to perform aerial flights, parachute jumping, glider flights, or submarine duty" in connection with inactive-duty training. As stated in S. Rep. No. 80-625 (Committee on Armed Services), at 2, accompanying S. 1174, 80th Cong., 1st sess. (1947): "Increases in pay authorized by law for flying, parachute jumping, submarine duty, etc., [for active-duty personnel] will be paid [to reserve forces personnel participating in such duties while performing inactive duty training]."

[34] The inactive-duty training pay provisions contained in Section 501 of the Career Compensation Act of 1949, ch. 681, *id*., 63 Stat. 825–27, were classified to 37 U.S.C. §301, whereas the hazardous duty incentive pay provisions set out in Section 204 of the Career Compensation Act, ch. 681, *id*., 63 Stat. 809–10, were classified to 37 U.S.C. §235. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions relating to hazardous duty incentive pay entitlements of reserve forces personnel were codified at 37 U.S.C. §301, together with the hazardous duty incentive

reorganization of the provisions of prior law dealing with inactive-duty training pays, including inactive-duty training incentive pays for hazardous duties. The extension of incentive pay for hazardous duty to new classes of reserve forces personnel—e.g., to reserve forces personnel in an inactive-duty training status performing parachute duties, explosives demolition duties, submarine escape training tank duties, etc.—appears to have derived from the extension of such pays to active-duty personnel, and not from any special concern about reserve forces personnel and whether they should be entitled to incentive pay for performance of various hazardous duties.[35] [36]

As above indicated, the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, 94 Stat. 3359, 3360–3364 (1980), further reorganized the provisions for hazardous duty incentive pay relating to submarine duties. While substantive changes were made for active-duty personnel, submarine duty pay for reserve forces personnel performing inactive-duty training remained unchanged. In effect, preexisting provisions of law respecting the entitlement of reserve forces personnel performing inactive-duty training were moved intact, without substantive change, from 37 U.S.C. §301(f) to 37 U.S.C. §301c(d).

Until 2003, the conditions of entitlement to submarine duty incentive pay for both active-duty and reserve forces personnel were set out in Section 106 of Executive Order 11157, as amended, and in various supplementary regulations adopted by the Secretary of the Navy pursuant to delegated authority under Section 113 of Executive Order 11157. Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to submarine duty pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments.

Current rates of pay: The current rates of pay for submarine duty in FY 2016, which have been in effect since October 1, 2004, are as set out on the following pages. The tables on the following pages do not list some pay rate categories, because they are identical to those already listed. For example, the tables do not list pay categories for enlisted members with over 20 years of service, over 22 years of services, and over 26 years of service, because pay rates for those categories are identical to pay rates for enlisted members with over 18 years of service.

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pay provisions relating to active duty personnel. When submarine duty incentive pay was first authorized by the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §3(d), 94 Stat. 3359, 3360–3364 (1980), reserve forces personnel performing inactive-duty training on submarines were covered under 37 U.S.C. §301c(d), in much the same fashion as they had been under the preceding program for submarine duty pay. The current structure of entitlements to hazardous duty incentive pay—including incentive pay for submarine duty—for reserve forces personnel performing inactive- duty training thus effectively derives from the organization imposed on Title 37 by the Act of September 7, 1962, Pub. L. No. 87-649, *id*.

[35] See, e.g., chapters of this book dealing with explosives demolition duty pay, parachute duty pay, etc.

[36] The Hook Commission, whose report led to the adoption of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), did not concern itself with reserve forces compensation in any way. See, e.g., "Terms of Reference," the charter given to the Hook Commission by the then Secretary of Defense, James Forrestal, in *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, vii–viii.

2016 Navy Enlisted Continuous Sub Pay Rates[37]

Pay Grade	Cumulative Years of Service					
	2 or Less	Over 2	Over 3	Over 4	Over 6	Over 8
E-9	$425	$425	$425	$425	$425	$425
E-8	415	415	415	415	415	415
E-7	405	405	405	405	405	405
E-6	155	170	175	300	325	375
E-5	140	155	155	250	275	275
E-4	80	95	100	245	245	245
E-3	80	90	95	95	90	90
E-2	75	90	90	90	90	90
E-1	75	75	75	75	75	75

2016 Navy Officer Continuous Sub Pay Rates

Pay Grade	Cumulative Years of Service				
	2 or Less	Over 2	Over 3	Over 4	Over 6
O-10	$355	$355	$355	$355	$355
O-9	355	355	355	355	355
O-8	355	355	355	355	355
O-7	355	355	355	355	355
O-6	595	595	595	595	595
O-5	595	595	595	595	595
O-4	365	365	365	525	595
O-3	355	355	355	510	595
O-2	305	305	305	305	305
O-1	230	230	230	230	230
	Warrant Officers				
W-5	$285	$375	$375	$425	$425
W-4	285	375	375	425	425
W-3	285	375	375	425	425
W-2	285	375	375	425	425
W-1	285	375	375	425	425

Pay Grade	Cumulative Years of Service				
	Over 8	Over 10	Over 14	Over 16	Over 18
O-10	$355	$355	$355	$355	$355
O-9	355	355	355	355	355
O-8	355	355	355	355	355
O-7	355	355	355	355	355
O-6	595	595	595	595	835

[37] U.S. Department of the Navy, Chief of Naval Operations, "OPNAV Instruction 7220.15 Change Transmittal 1:Submarine Duty Incentive Pay Program," January 26, 2016, 23–24, https://doni.documentservices.dla.mil/Directives/07000%20Financial%20Management%20Services/07-200%20Disbursing%20Services/7220.15%20CH-1.pdf; U.S. Department of Defense, Defense Finance and Accounting Service, "Military Pay Charts—1949 to 2016: Jan. 1, 2016," accessed October 4, 2016, http://www.dfas.mil/militarymembers/payentitlements/military-pay-charts.html.

O-5	595	595	790	835	835
O-4	705	705	790	790	790
O-3	705	705	705	705	705
O-2	305	425	425	425	425
O-1	230	425	425	425	425
			Warrant Officers		
W-5	$425	$425	$425	$425	$425
W-4	425	425	425	425	425
W-3	425	425	425	425	425
W-2	425	425	425	425	425
W-1	425	425	425	425	425

Cost: For the cost of compensation for submarine duty incentive pay from 1972 to 2016, see table II-17, below.

Table II-17. Submarine Duty Incentive Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	22,388	$24,743	2,660	$5,788	19,728	$18,955
1973	22,660	25,584	2,948	6,424	19,712	19,160
1974	21,974	24,996	2,816	6,178	19,158	18,818
1975	21,802	24,637	2,649	5,822	19,153	18,815
1976	21,903	24,617	2,668	5,787	19,235	18,830
1977	21,896	24,030	2,650	5,708	19,246	18,322
1978	22,703	24,458	2,795	5,931	19,905	18,527
1979	23,190	24,429	2,750	5,763	20,440	18,666
1980	23,280	24,404	2,814	5,902	20,466	18,502
1981	31,344	51,753	4,130	13,189	27,214	38,564
1982	36,552	66,790	4,937	16,841	31,615	49,949
1983	37,701	69,776	5,238	17,851	32,463	51,925
1984	38,332	72,385	5,601	19,096	32,731	53,289
1985	39,196	75,455	5,785	19,921	33,411	55,534
1986	40,004	78,050	5,805	21,103	34,199	56,947
1987	40,924	79,615	5,834	21,550	35,090	58,065
1988	41,248	101,452	5,917	27,925	35,331	73,527
1989	41,849	110,628	5,998	30,557	35,851	80,071
1990	41,744	109,802	5,731	29,755	36,013	80,047
1991	42,622	110,788	5,757	30,041	36,865	80,747
1992	40,986	107,316	5,584	29,125	35,402	78,191
1993	38,993	103,301	5,370	28,394	33,623	74,907
1994	34,232	94,707	5,128	27,070	29,104	67,637
1995	30,903	87,092	4,682	25,116	26,221	61,976
1996	28,746	81,117	4,291	23,717	24,455	57,400
1997	27,334	76,862	4,044	22,530	23,290	54,332
1998	26,368	73,321	4,070	22,233	22,298	51,088
1999	24,021	66,394	3,626	20,195	20,395	46,199
2000	23,129	63,075	3,719	19,597	19,410	43,478

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2001	24,178	63,368	3,570	19,388	20,608	43,980
2002	23,926	63,632	3,769	19,544	20,157	44,088
2003	23,859	78,760	3,929	21,901	19,930	56,859
2004	25,805	82,755	3,983	22,495	21,822	60,260
2005	24,955	85,457	4,042	27,589	20,913	57,868
2006	23,688	82,496	4,060	28,117	19,628	54,379
2007	23,581	82,861	4,031	27,804	19,550	55,057
2008	21,645	76,761	3,883	26,927	17,762	49,834
2009	21,895	75,319	3,921	25,845	17,974	49,484
2010	21,264	75,014	3,885	25,574	17,379	49,440
2011	22,520	76,468	3,879	25,464	18,641	51,004
2012	22,829	78,769	3,740	25,269	19,089	53,500
2013	23,526	79,640	3,941	25,140	19,585	54,500
2014	22,742	77,661	3,825	25,463	18,917	52,198
2015	39,908	107,172	19,954	53,586	19,954	53,586
2016[1]	41,994	117,800	20,997	58,900	20,997	58,900

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.D.3.b.
Operational Submersible Duty Pay

Legislative Authority: 37 U.S.C. §301c.

Purpose: To provide an additional pay to increase the Navy's ability to attract and retain volunteers for duty in deep submergence vessels and deep submergence rescue vessels, and to compensate for the more than normally dangerous character of such duty.

Background: The Act of July 12, 1960, Pub. L. No. 86-635, 74 Stat. 469 (1960), created a new category of duty for which hazardous duty incentive pay was authorized under 37 U.S.C. §301—namely, for personnel assigned "as an operator or crew member of an operational, self-propelled submersible, including undersea exploration and research vehicles." The act followed by about two years the U.S. Navy's purchase and placement in service of the bathyscaphe *Trieste*. The Comptroller General of the United States had taken the position that the *Trieste* was not a "submarine" and that its operators were thus not entitled to hazardous duty incentive pay for submarine service. The purpose of the act was to overcome the effect of this decision and to make operators and crew members of self-propelled submersibles eligible for the same extra pay as members performing submarine duty.

As was true of all hazardous duty incentive pays covered by 37 U.S.C. §301, rates of pay for self-propelled submersible duty were generally higher for officers than for enlisted personnel. These differentials resulted from the incentive pay structure adopted in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(c), 63 Stat. 802, 810 (1949) under recommendations of the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission. The commission's rationale for these differentials was as follows:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.
>
> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.
>
> (3) Officers are usually given greater special responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.[1]

Under the Act of July 12, 1960, Pub. L. No. 86-635, *id*., adopting self-propelled submersible pay entitlements, rates of pay for such duty were the same as those for submarine duty and hence ranged from $50 a month for members in pay grades E-1 and E-2 with fewer than two years of service to $245 a month for members in pay grades O-5 and O-6 with more than 18 years of service. In practice, however, only qualified submarine personnel in pay grades E-4 through O-4 were in fact assigned to submersibles, with the result that rates of pay ranged from a low of $55 to a high of $240 per month. These rates remained in effect for roughly 25 years until the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §3(d), 94 Stat. 3359, 3360–3364 (1980), as technically amended by the Department of Defense Supplemental Authorization Act, 1981, Pub. L. No. 97-39, §701, 95 Stat. 939, 942 (1981), changed the entire structure of the pay. In simplest terms, the two acts cited immediately above have the effect of extending the pay structure adopted under the former act for submarine duty to "operational submersible"

[1] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

duty as well, thereby setting up a career incentive pay structure patterned after aviation career incentive pay. Under this structure, personnel assigned to "operational submersible" duty are entitled to submarine duty incentive pay to the same extent and under the same circumstances as personnel in submarine service.[2]

In practice, most of the personnel assigned to duty on operational submersibles, including undersea exploration or research vehicles, hold submarine duty designators and are in the submarine service on a career basis. Such personnel are, accordingly, entitled to continuous monthly submarine duty incentive pay. Other personnel, such as divers, are occasionally assigned to duty on operational submersibles and, when so assigned, are entitled to monthly submarine duty incentive pay while actually performing "frequent and regular operational submarine duty." [See 37 U.S.C. §301c(a)(2).] For a description of the submarine duty incentive pay to which personnel assigned to submarine duty are entitled, and the rates of such pay for affected personnel,[3] see Chapter II.D.3.a., "Submarine Duty Incentive Pay," above.

Before operational submersible duty pay was subsumed within the submarine duty incentive pay program, reserve forces personnel performing inactive-duty training were technically entitled to hazardous duty incentive pay under 37 U.S.C. §301(f) if, while performing inactive-duty training, they also performed qualifying duty aboard an operational submersible under competent orders. This technical entitlement arose out of the Act of July 12, 1960, Pub. L. No. 86-635, 74 Stat. 469 (1960), discussed above, which extended entitlement to hazardous duty incentive pay to personnel performing operational submersible duties. When the 1960 act added a new category of duty to 37 U.S.C. §301(a) for which hazardous duty incentive pay was authorized for active-duty personnel, reserve forces personnel performing operational submersible duties while engaged in inactive-duty training also became automatically entitled to operational submersible duty pay under 37 U.S.C. §301(f). Under this latter provision, reserve forces personnel performing inactive-duty training were entitled to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel for performing operational submersible duties for every "period of instruction ... or ... appropriate duty" during which they performed qualifying duties. Because the overall entitlement to operational submersible pay was essentially intended to parallel the entitlement to submarine duty pay,[4] the reader is referred to Chapter II.D.3.a., "Submarine Duty Incentive Pay," for a more complete description of the background and history of this entitlement.

> Because of the peculiar conditions surrounding assignment to and duty on an operational submersible, it is doubtful if any reserve forces personnel performing inactive-duty training ever actually received hazardous duty incentive pay for the performance of operational submersible duties.

Current rates of pay: For current rates of pay involving duty on an operational submersible, see Chapter II.D.3.a., "Submarine Duty Incentive Pay," above.

Cost: Beginning in 1977, budgeting of compensation for operational submersible duty was included in budgeting for submarine duty compensation. For the cost of compensation for duty on an operational submersible from 1972 to 1976, see table II-18, below.

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[2] Under 37 U.S.C. §301c(a)(5)(A)(i), as amended by Section 701(b) of the Department of Defense Supplemental Authorization Act, 1981, Pub. L. No. 97-39, §701(b), 95 Stat. 939, 942 (1981), undersea exploration or research vehicles are included within the category of "operational submersibles," with the result that duty on such vessels qualifies as "operational submarine duty."

[3] The rates of submarine duty incentive pay authorized for persons assigned to an operational submersible have been increased twice since the current submarine duty incentive pay program was adopted in the Military Pay and Allowances Benefits Act of 1980—first, by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §633, 99 Stat. 583, 646 (1985), and second, and most recently, by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §623(b), 101 Stat. 1019, 1101–1103 (1987). For a discussion of these changes, the reasons therefore, and the rates of submarine duty incentive pay for personnel assigned to duty on operational submersibles, see Chapter II.D.3.a., "Submarine Duty Incentive Pay," above.

[4] See discussion of the reasons underlying enactment of the Act of July 12, 1960, Pub. L. No. 86-635, 74 Stat. 469 (1960), above.

Table II-18. Operational Submersible Duty Pay, 1972–1976

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	75	$98	15	$33	60	$65
1973	75	98	15	33	60	65
1974	75	98	15	33	60	65
1975	75	99	15	34	60	65
1976	75	99	15	34	60	65

Note: Operational Submersible Duty Pay is currently budgeted as part of Submarine Duty Incentive Pay.

Chapter II.D.3.c.
Diving Duty Pay

Legislative Authority: 37 U.S.C. §304.

Purpose: To provide additional pay to increase the ability of the uniformed services to attract and retain volunteers for diving duty, and to compensate for the more than normally dangerous character of such duty.

Background: Extra pay of $1.20 an hour for actual underwater diving, other than for diving under instruction, was authorized for Navy enlisted members by Navy Department General Order No. 346 of April 20, 1886. Entitlement to diving duty pay continued to be dependent wholly on regulations until the pay was legislatively recognized in the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §21, 42 Stat. 625, 633 (1922), which provided that "nothing in this Act shall operate to change in any way existing laws, or regulations ... governing ... extra pay to enlisted men ... engaged in submarine diving...."[1]

The Act of April 9, 1928, ch. 327, Pub. L. No. 70-244, 45 Stat. 412 (1928), which dealt with, among other things, both submarine duty pay and diving pay, changed the $1.20 hourly rate for actual diving to a monthly rate of not less than $5 nor more than $30 for enlisted personnel assigned to such duty; it also provided for a payment of an additional $5 per hour to divers engaged in salvage operations in water depths over 90 feet, with the pay authorized for the number of hours, or fractions thereof, while so employed.[2] A Navy representative explained the purpose of the additional pay for diving duties in these terms:

> The present law does not meet the needs of the service, for under it there is not sufficient inducement for sufficient men to become qualified for deep-sea diving and to undertake sufficient diving operations to keep themselves fit and fully qualified for actual service should the occasion arise.... Under the plan in view, a certain amount of practice diving would be required periodically in order for a man to maintain his qualification. At the same time extra compensation, beyond what might be termed retainer pay for qualification, would be paid to men engaged in the especially hazardous work incident to salvage operations in depths beyond 90 feet.[3]

The Act of January 16, 1936, ch. 1, Pub. L. No. 74-415, 49 Stat. 1091 (1936), amended the Act of April 9, 1928, ch. 327, *id*., by adding authority for the payment of an extra 25 percent of base and longevity pay to officers on duty at submarine escape training tanks, the Navy Deep Sea Diving School, and the Naval Experimental Diving Unit. This action was taken by Congress to make officers performing such duty eligible for the same extra pay as officers performing submarine duty.[4] The Act of June 27, 1942, ch. 448, Pub. L. No. 77-627, 56 Stat. 391 (1942), further amended the Act of April 9, 1928, ch. 327, *id.*, by stipulating that the additional $5 per hour previously payable for diving at depths in excess of 90 feet of

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[1] The phrase, "submarine diving," was intended to apply to undersea, i.e., "submarine," diving; it had nothing to do with service on a submarine. Indeed, a fuller rendition of the text of Section 21 of the Joint Service Pay Readjustment Act of 1922, ch. 212, *id*., §21, 42 Stat. 633, provided "nothing in this Act shall operate to change in any way existing laws, or regulations ... governing ... extra pay to enlisted men ... engaged in submarine diving or service on submarines." Thus, "service on submarines" was quite distinct from "submarine diving."

[2] In dealing with submarine duty, the Act of April 9, 1928, authorized submarine duty pay in the amount of 25 percent of base and longevity pay for officers and not less than $5 nor more than $30 a month for enlisted personnel. See Chapter II.B.3.a., "Submarine Duty Incentive Pay," above.

[3] *A Hearing on the Bill (H.R. 9289) Providing Additional Pay for Personnel of the United States Navy Assigned to Duty on Submarine Vessel and Diving Duty (March 1, 1928)* printed in *Hearings before the House Committee on Naval Affairs on Sundry Legislation Affecting the Naval Establishment*, 70th Cong., 1st sess., 1475 (1928) (statement of Rear Admiral R. H. Leigh, USN, Chief of the Bureau of Navigation).

[4] See footnote 1 to this chapter, above.

water could also be paid for actual diving at depths of less than 90 feet under "extraordinarily hazardous conditions" as well as for depths greater than 90 feet, that the $5 per hour could be paid to officers as well as to enlisted personnel, and that it could be paid for either "salvage or repair operations" instead of being restricted to salvage work alone. This amendment was adopted because of the extensive and dangerous salvage and repair operations then being carried out at Pearl Harbor, where the water depth was generally no more than 50 feet. The Act of April 10, 1943, ch. 47, Pub. L. No. 78-33, 57 Stat. 60 (1943), extended the same pay to Army personnel assigned to diving duty.

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(a)(8) and (9), 63 Stat. 802, 810 (1949), separately categorized "duty at a submarine escape training tank" and "duty at the Navy Deep Sea Diving School or the Navy Experimental Diving Unit, when such duty involves participation in training," as duties for which hazardous duty incentive pay was authorized at the monthly rate of $100 for officers and $50 for enlisted personnel.[5] [6] For diving duty in general, however, the Career Compensation Act of 1949, ch. 681, *id*., §205, 63 Stat. 810–11, continued the existing monthly pay of not less than $5 nor more than $30 per month for enlisted personnel, and the $5 per hour additional pay for "[m]embers of the uniformed services [i.e., both officers and enlisted personnel] ... employed as divers in actual salvage or repair operations in depths of over ninety feet, or in depths of less than ninety feet, when the officer in charge of the ... operation shall find ... that extraordinary hazardous conditions exist...."[7] [8] Despite the classification of the general provisions for diving duty as a "special" pay, it appears certain that Congress intended that diving duty pay serve the same purpose as incentive pay—that is, to attract and retain volunteers for the hazardous duty of diving.[9]

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[5] These provisions, adopted as Section 204(a)(8) and (9), respectively, were subsequently classified to 37 U.S.C. §235(a). See 37 U.S.C. §235(a) (1952).

[6] With the adoption of these specific provisions, the assumed linkage of pay for "duty at a submarine escape training tank" and "duty at the Navy Deep Sea Diving School or the Navy Experimental Diving Unit" with submarine duty pay, see footnote 1 and accompanying text as well as text accompanying footnote 3 to this chapter, above, was broken, as the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), effectively paired submarine duty pay with crew member flight pay. See Chapter II.D.3.a., "Submarine Duty Incentive Pay," above.

[7] S. Rep. No. 81-733 (Committee on Armed Services), at 19, accompanying H.R. 5007, 81st Cong., 1st sess. (1949). See H.R. Rep. No. 81-779 (Committee on Armed Services), at 30, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[8] These latter diving-duty provisions, which were enacted as Section 205 of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §205, 63 Stat. 802, 810–11 (1949), were subsequently classified to 37 U.S.C. §236. See 37 U.S.C. §236 (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the general diving-duty provisions deriving from the Career Compensation Act of 1949, ch. 681, *id*., §205, 63 Stat. 810–11, were codified at 37 U.S.C. §304. (The provisions of the Career Compensation Act of 1949, ch. 681, *id* ., §204(a)(8) and (9), 63 Stat. 810, relating to "duty at a submarine escape training tank" and "duty at the Navy Deep Sea Diving School or the Navy Experimental Diving Unit, when such duty involves participation in training," were not separately codified in the new Title 37, United States Code, after its enactment into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, *id*.; rather, to the extent such duty qualified as "diving duty," persons engaged in activities formerly covered by Section 204(a)(8) or (9) of the Career Compensation Act of 1949, ch. 681, *id* ., §204(a)(8) and (9), 63 Stat. 810, became entitled to diving duty pay under new 37 U.S.C. §304. See discussion of the Act of August 17, 1961, Pub. L. No. 87-145, 75 Stat. 382 (1961), which consolidated all diving duty pays into one statutory provision, at text accompanying footnotes 12 and 13, below.)

[9] The Career Compensation Act of 1949, ch. 681, *id*., denominated extra pay for physicians and dentists as a "special pay" [also see Section 203 of the Career Compensation Act of 1949, ch. 681, *id*., §203, 63 Stat. 809], but the legislative history of the act shows that those pays were being "continued because of the critical shortage of such personnel in the uniformed services." See H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, accompanying H.R. 5007, 81st Cong., 1st sess. (1949). Moreover, although diving duty pay was not specifically mentioned in the House report, the general group of hazardous duty incentive pays were grouped together for discussion purposes with extra pay for physicians and dentists under the comprehensive heading of "[s]pecial incentive pays."[*id*.] (As far as the present, incentive-based nature of diving duty pay is concerned—despite the continued denomination of diving duty pay as a

The Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §§2(6), 2(8), 2(9), and 2(10), 69 Stat. 18, 21 (1955), increased the rates of the various extra pays relating to diving duty by 10 percent—to $110 a month for officers and to $55 a month for enlisted personnel under 37 U.S.C. §235 (1952) (hazardous duty incentive pay) and to $5.50 and $33 under 37 U.S.C. §236 (1952) (diving duty pay). It also added another type of diving duty to the general class of duties for which hazardous duty incentive pay was authorized under the precursor of present 37 U.S.C. §301[10]—"duty involving the use of helium-oxygen for a breathing mixture in the execution of deep-sea diving." Although this duty had previously qualified members for diving pay, its reclassification as a hazardous duty incentive pay allowed the payment of a higher monthly rate of pay to those divers who had to dive deeper and undergo a greater hazard than those equipped with a normal breathing mixture. That is, classification as a hazardous duty under the precursor of present 37 U.S.C. §301 permitted a higher rate of pay than duty for which diving duty pay was authorized under the precursor of present 37 U.S.C. §304.[11] The net result was three categories of hazardous duty incentive pay related to diving duty: the first, covered by the precursor of present 37 U.S.C. §301, was payable at the monthly rate of $110 for officers and $55 for enlisted personnel, and the second and third, covered by the precursor of present 37 U.S.C. §304, consisted of a two-component special pay for diving duty—namely, a special pay of not less than $5.50 nor more than $33 per month for enlisted personnel assigned generally to diving duty and a further special pay at the rate of $5.50 per hour for officers and enlisted personnel engaged in salvage or repair diving operations deemed hazardous, either because of the depth of water in which they were performed, i.e., "over ninety feet," or because of a finding of "extraordinary hazardous conditions" by the officer in charge.

The Act of August 17, 1961, Pub. L. No. 87-145, §1, 75 Stat. 382 (1961), replaced all these separate pays with a special pay for diving duty payable at a rate of not more than $110 a month under regulations to be prescribed by the "Secretary concerned," thereby consolidating all diving duty provisions under one statutory heading. Under this new, consolidated provision, a member could not be paid special pay for diving duty in addition to incentive pay for hazardous duty. The hazardous duty incentive pay program, on the other hand, allowed the payment of up to two types of incentive pay for the same period. [See, e.g., former 37 U.S.C. §236(e) (as in effect after enactment of the Act of August 17, 1961, Pub. L. No. 87-145, *id*.) and present 37 U.S.C. §301(e).] Thus, for example, under the Act of August 17, 1961, Pub. L. No. 87-145, *id*., a member required by competent orders to perform parachute-jumping duty in addition to explosive ordnance demolition duty could be paid hazardous duty incentive pay for both parachute and demolition duty, whereas a member required to perform diving duty in addition to demolition duty could not be paid both diving pay and demolition duty pay.

Congress described the purpose of consolidating the various diving duty pays in the Act of August 17, 1961, Pub. L. No. 87-145, *id*., in these terms:

> Because of the inequities which occur under the present system of computing special pay for diving duty, and because the rates of diving pay have remained substantially static for 30 years, for the past several years there has been a shortage of divers in the Navy. Insufficient members who can meet the stringent physical requirements are attracted to this hazardous duty....
>
> To lessen the burden of administering special diving pay and to render the administration of the pay more equitable, the enclosed draft bill prescribes a maximum flat rate of special pay for diving duty. Under regulations promulgated by the Secretary concerned, varying amounts of special pay would be authorized for the different categories of divers.... The flat rate to be paid a particular diver would depend solely upon his current

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"special pay," see head note to present 37 U.S.C. §304—consult text accompanying footnotes 14 through 17 to this chapter, below.)

[10] See footnote 5 to this chapter, above.

[11] See footnote 5 to this chapter, above.

> qualifications as a diver, the master diver, for example, receiving greater pay than the first-class diver, who is less qualified and who will, in general, carry out less difficult and less hazardous diving assignments. Those clauses of Section 204(a) of the Career Compensation Act of 1949 [ch. 681 [Public Law 351, 81st Congress], 63 Stat. 802 (1949)] authorizing incentive pay for hazardous duty relating to diving ... would be repealed....
>
> The simplified procedures which could be followed under the flat-rate system would enhance efficiency, morale, equity, and long-term incentive.[12]

The Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §115, 95 Stat. 989, 995–96 (1981), changed the basic structure of diving duty pay, increasing the maximum rates of such pay—from $110 to $300 per month for enlisted personnel and to $200 per month for officers—in addition to providing the first authority for a person receiving such pay to also receive one form of hazardous duty incentive pay under 37 U.S.C. §301. As indicated in the relevant congressional report, Congress concluded that, the maximum rates having last been changed in 1961 (in 1955 for officers), diving duty pay had "lost its incentive value,"[13] and increases were accordingly necessary to attract required numbers of personnel to the duty.

As explained in the Senate report dealing with the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., maximum diving duty pay in 1961 amounted to 42 to 47 percent of basic pay, depending on grade and classification of the diver, whereas in 1981 it amounted to less than 15 percent of such pay.[14] In addition, the Senate report noted low manning levels and the lack of sufficient volunteers for training to warrant holding special classes.[15] To increase incentives for personnel to enter, and remain in, diving-duty specializations, Congress felt it necessary both to increase the maximum rates payable and to allow personnel receiving special pay for diving duty also to receive one other form of hazardous duty incentive pay.[16] The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 652 (1999), improved this incentive by eliminating the limitation to one other form of hazardous duty pay. Thus, effective October 1, 1999, a qualified diver could receive such pay for "each hazardous duty for which the member is qualified."

As restructured, diving duty pay is payable, during periods diving duty is actually performed, to personnel assigned to diving duty who are required to maintain proficiency by "frequent and regular" dives. [See 37 U.S.C. §304(a).] Under regulations adopted by each service, actual rates are dependent on the skill level of the diver and on the specific billet to which the diver is assigned.[17]

Thus, under the pay structure resulting from the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §115, 95 Stat. 989, 995–96 (1981), the position of diving duty vis-à-vis the duties for which hazardous duty incentive pay is authorized has been effectively reversed. Under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §205, 63 Stat. 802, 810–11 (1949), the rates of pay for regular diving duties were less than those for duties classified as hazardous. Today, at least insofar as the maximum rates of pay authorized are concerned, the rates of pay for diving duties generally exceed the rates applicable to the hazardous duties governed by 37 U.S.C. §301.[18] The National Defense Authorization Act for Fiscal

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[12] S. Rep. No. 662 (Committee on Armed Services), at 5–6, accompanying H.R. 4323, 87th Cong., 1st sess. (1961).
[13] S. Rep. No. 97-146 (Committee on Armed Services), at 10, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[14] S. Rep. No. 97-146 (Committee on Armed Services), at 10–11, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[15] S. Rep. No. 97-146 (Committee on Armed Services), at 10–11, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[16] In allowing personnel to receive one form of hazardous duty pay in addition to special pay for diving duty, Congress referred to the consistency of such a practice "with the existing dual pay restriction incorporated in 37 U.S.C. 301" relating to incentive pay for hazardous duties. See S. Rep. No. 97-146 (Committee on Armed Services), at 11, accompanying S. 1181, 97th Cong., 1st sess. (1981).
[17] See *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶¶11102 and 11103.
[18] Some air weapons control officer flight pay rates exceed the maximum rates of pay authorized for diving duty. See, e.g., 37 U.S.C. §301(c)(2)(A). Also see Chapter II.D.1.b.(4), "Flight Pay (Air Weapons Controllers)," above.

Year 2000 raised the monthly rate for enlisted members from $300 to $340, and for officers from $200 to $240. This was the first rate change since the program was restructured by the Uniformed Services Pay Act of 1981.

With the passage of the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §624(a), 101 Stat. 1019, 1103–1104 (1987), reserve forces personnel[19] entitled to compensation for inactive-duty training became entitled to diving duty pay when performing qualifying duties under competent orders, provided Congress had appropriated sufficient funds for that purpose.[20] Under 37 U.S.C. §304(d), members of the reserve forces who perform qualifying diving duties while entitled to compensation under 37 U.S.C. §206, are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly special pay" payable to active-duty personnel performing such duties.[21] That is, for every "regular period of instruction or period of appropriate duty" or "such other equivalent training, instruction, duty, or appropriate duties" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying duty under 37 U.S.C. §304(d), also entitled to 1/30th of the diving duty pay that would be payable to a member of the active-duty force who was performing such duties. Under regulations prescribed by the "Secretary concerned," a member of a reserve force who performs diving duties under 37 U.S.C. §304(d), while engaged in inactive-duty training is entitled to diving duty pay.[22] [23]

Congress explained its reasons for extending diving duty pay to reserve forces personnel performing inactive-duty training in the following terms:

> The Department of Defense has requested that divers in the Reserve Components be entitled to diving duty pay when they meet the requirements established for the pay that

[19] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[20] Unlike various provisions of Title 37, United States Code, dealing with the entitlement of members of the active-duty forces to special and incentive pays, the corresponding provisions of Section 304 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to special pay for diving duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §304(d)(1).

[21] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[22] For a discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)," above.

[23] Pursuant to Section 624(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, *id*., §624(b), 101 Stat. 1104, the extension of diving duty pay entitlement to reserve force members performing inactive-duty training became effective "on the first day of the fourth calendar month following the month in which this Act is enacted"—or, in other words, on April 1, 1988.

> apply to active duty personnel. The Committee recommends approval of this Defense Department proposal....[24]

In making the above-noted "request," the Department of Defense relied heavily on the conclusions and recommendations of the Sixth Quadrennial Review of Military Compensation.[25] As noted by the Sixth Quadrennial Review:

> Until December 1987, the law restricted entitlement to Diving Duty Pay to officer and enlisted divers in receipt of basic pay who were assigned by competent orders to diving duty positions, and who maintained the required qualifications and performed diving duty. Reservists were not eligible for diving duty pay during periods of IDT [inactive-duty training], because they were not entitled to basic pay. This restriction precluded reservists from drawing diving duty pay during drill weekends even though they performed diving duties.
>
> The 6th QRMC [Quadrennial Review of Military Compensation] review indicated that undermanning existed in the diving programs of the Navy, Marine Corps and, to a lesser extent, the Air Force. Most critical was the Naval Reserve, where only 38 percent of authorized diving positions were manned. The 6th QRMC recommended that legislation be prepared to extend the eligibility for diving duty pay to Selected Reservists performing inactive duty for training. Subsequently Section 624 of Public Law 100-180 authorized the payment of diving duty pay to reservists during periods of IDT.[26]

Current rate of pay: The current rates of pay for diving duty are:

Category of Personnel	**Rate of Pay**
Officers	Not to exceed $240 per month[27]
Enlisted members	Not to exceed $340 per month[28]

[24] S. Rep. No. 100-57 (Committee on Armed Services), at 147, accompanying S. 1174, 100th Cong., 1st sess. (1987); *cf*. H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987) (indicating merely that the House acceded to the Senate amendment extending diving duty pay to reserve forces personnel performing inactive-duty training).

[25] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001.

[26] *Report of the Sixth Quadrennial Review of Military Compensation*: *Executive Summary*, August 1988, 51. Also see *Report of the Sixth Quadrennial Review of Military Compensation, Volume I: National Guard and Reserve Compensation*, August 1988, 5–9.

[27] U.S. Department of Defense, Defense Finance and Accounting Service, "Military Pay Charts—1949 to 2016: Jan. 1, 2016," accessed October 4, 2016, http://www.dfas.mil/militarymembers/payentitlements/military-pay-charts.html. For specific rates of pay authorized for different categories of officers, see *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶11103.a.

[28] U.S. Department of Defense, Defense Finance and Accounting Service, "Military Pay Charts—1949 to 2016: Jan. 1, 2016," accessed October 4, 2016, http://www.dfas.mil/militarymembers/payentitlements/military-pay-charts.html. For specific rates of pay authorized for different categories of enlisted members, see *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶11103.b.

Cost: For the cost of diving duty pay from 1972 to 2016, see table II-19, below.

Table II-19. Diving Duty Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Total Officers	Cost ($000)	Total Enlisted	Cost ($000)
1972	3,611	$3,839	659	$870	2,952	$2,969
1973	3,773	4,059	672	886	3,101	3,173
1974	3,632	3,852	547	703	3,085	3,149
1975	3,863	4,039	527	696	3,336	3,343
1976	3,361	3,542	399	527	2,962	3,015
1977	2,683	2,938	398	525	2,285	2,413
1978	2,322	2,620	444	586	1,878	2,039
1979	2,248	2,513	355	468	1,893	2,045
1980	2,225	2,483	337	446	1,888	2,037
1981	2,104	2,347	348	460	1,756	1,887
1982	2,833	3,976	512	832	2,321	3,144
1983	4,763	9,433	1,016	2,333	3,747	7,100
1984	5,304	12,451	1,037	2,381	4,267	10,070
1985	5,784	10,943	1,123	2,577	4,661	8,366
1986	6,106	11,845	1,301	2,944	4,805	8,901
1987	6,188	12,114	1,174	2,720	5,014	9,394
1988	6,674	13,107	1,360	3,069	5,314	10,038
1989	6,977	13,660	1,568	3,419	5,409	10,241
1990	7,681	15,080	1,607	3,518	6,074	11,562
1991	8,195	16,204	1,584	3,567	6,611	12,637
1992	8,149	16,067	1,527	3,471	6,622	12,596
1993	7,836	16,097	1,476	3,368	6,360	12,729
1994	7,886	15,926	1,546	3,507	6,340	12,419
1995	7,685	15,986	1,431	3,332	6,254	12,654
1996	7,369	15,438	1,410	3,244	5,959	12,194
1997	7,189	14,934	1,308	3,043	5,881	11,891
1998	8,454	17,579	1,390	3,215	7,064	14,364
1999	7,677	15,894	1,342	3,078	6,335	12,816
2000	8,200	19,936	1,364	3,693	6,836	16,243
2001	10,283	23,008	1,394	3,868	8,889	19,140
2002	8,129	22,444	1,492	4,092	6,637	18,352
2003	8,866	22,603	1,590	4,304	7,276	18,299
2004	7,646	19,589	1,614	4,328	6,032	15,261
2005	8,064	20,404	1,694	4,341	6,370	16,063
2006	7,841	19,836	1,711	4,439	6,130	15,397
2007	8,326	21,029	1,774	4,599	6,552	16,430
2008	7,599	22,311	1,738	4,633	5,861	17,678
2009	8,591	25,075	1,812	4,922	6,779	20,153
2010	8,955	26,128	1,932	5,323	7,023	20,805
2011	9,327	23,744	1,873	4,975	7,454	18,769
2012	9,651	24,526	1,993	5,243	7,658	19,283
2013	10,030	25,664	2,209	6,143	7,821	19,521

Fiscal Year	Total Personnel	Cost ($000)	Total Officers	Cost ($000)	Total Enlisted	Cost ($000)
2014	9,656	24,702	2,014	5,378	7,642	19,324
2015	9,743	24,811	2,108	5,612	7,635	19,199
2016[1]	9,256	23,631	1,985	5,296	7,271	18,335

[1]Estimate

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.D.3.d.
Special Pay for Career Sea Duty

Legislative Authority: 37 U.S.C. §305a.

Purpose: To provide a special payment to personnel serving on sea duty in recognition of the greater-than-normal rigors of service attending such duty, and to efficiently target manpower dollars to improve the retention of personnel in sea-service skills.

Background: The Act of March 3, 1835, ch. 27, §1, 4 Stat. 755, 755–57 (1835), established pay rates for Navy officers that included within-grade differentials linked to duty status—at sea, on other duty, or on leave or waiting orders. These differentials were the earliest legislative manifestation of a "sea duty pay" principle, though the higher rates for service at sea were then looked upon as regular pay for normal service rather than as "extra" pay. An officer who was not at sea was considered to be performing less than full-fledged duty and thus was entitled to only part of the regular pay of his grade. This theory governed Navy officers' pay for almost 75 years. The Act of March 3, 1899, ch. 413, §13, 30 Stat. 1004, 1007 (1899), illustrated the theory clearly by providing that, while performing sea duty, Navy officers were entitled to no less pay than Army officers of corresponding rank, but when ashore or waiting orders, to 15 percent less than Army officers.

The Act of June 1, 1860, ch. 67, §1, 12 Stat. 23, 24 (1860), illustrates a step in the gradual evolution of principles governing sea duty pay. Under that act, for the first time, the length of an officer's cumulative sea service was recognized as a pay factor in some officer grades. The act continued the within-grade differentials linked to an officer's sea duty, other duty, or leave/waiting orders status. But, for the grades of lieutenant, boatswain, gunner, carpenter, and sailmaker, it also prescribed pay steps based on length of sea service. These sea-service pay steps lasted two years for the grade of lieutenant and until 1870 for the warrant officer grades.

The Act of May 13, 1908, ch. 166, Pub. L. No. 60-115, §1, 35 Stat. 127, 127–28 (1908), ended the 73-year reign of duty-status differentials and established pay rates for Navy officers based strictly on grade and length of service. Concomitantly, with the establishment of a new special category of pay for officers assigned to sea duty, sea duty pay came to be seen as "extra" compensation, since officers became entitled to an additional 10 percent of base pay while performing such duty. The 10-percent provision remained in effect until repealed by the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §2, 42 Stat. 625, 627 (1922). There was no added pay for sea duty between 1922 and 1942.

The Act of March 7, 1942, ch. 166, Pub. L. No. 77-490, §18, 56 Stat. 143, 148 (1942), revived sea duty pay as a wartime measure and for the first time included enlisted personnel within its scope. The act provided for commissioned officers to receive an additional 10 percent of base pay, and for warrant officers and enlisted personnel to receive an additional 20 percent, while performing sea duty. A few months later, the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §2, 56 Stat. 359, 360 (1942), enacted these provisions for sea duty pay into permanent law.

In 1948, at the request of the Secretary of Defense, the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission, undertook the first comprehensive study of military compensation since 1908. In reviewing military compensation generally, and sea duty pay in particular, the Hook Commission recommended that sea duty pay be abolished for officers but continued, albeit in a modified form, for enlisted personnel. In support of this recommendation, the commission stated:

> The Commission has concluded that sea duty for naval personnel, as well as oversea duty for the Army and Air Force, although probably involving more inconvenience than military activity ashore or at home, is a part of their normal career.... Officers, especially, do not deserve extra pay for this type of duty, since the pay recommended for them is apportioned to their relative responsibility as executives and administrators, regardless of their site of operation. Additional compensation is unnecessary and undesirable for work which should be expected as a normal incident in a chosen career.

> For enlisted personnel, the Commission proposes a flat rate increase, as in keeping with accepted industry practice for disagreeable or unpleasant work and as a morale factor. A percentage of pay increase for these duties bears no relation to the inconvenience felt by the individual nor is the unpleasantness in proportion to the grade or rating.[1]

Congress adopted the major portion of the Hook Commission's reasoning and recommendations concerning special pay for sea duty in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §206, 63 Stat. 802, 811 (1949).[2] The act eliminated authorization for sea duty pay for officers entirely. In addition, it changed the way the entitlement was computed for enlisted personnel, establishing rates ranging from $8 for the lowest enlisted pay grade to $22.50 for the highest enlisted grade.

In dealing with the Hook Commission's recommendations on sea duty pay, the House Committee on Armed Services stated:

> The committee is in complete agreement with the Hook Commission that sea and foreign duty pay is part of the normal career of all members of the uniformed services. It especially recognizes that officers should not be compensated with special pay for overseas assignments which must be anticipated as part of an average career in the services. On the other hand, the committee also agrees with the Commission that some small remuneration should be granted to enlisted personnel who serve at sea or in foreign stations because of the morale factor involved. In view of the pay increases provided in the bill, the committee is of the opinion that the sums provided for sea and foreign duty for enlisted personnel are sufficient.[3] [4]

Even if rates for sea duty pay were "sufficient" in 1949, questions concerning their continued sufficiency for specific purposes arose in ensuing years. In 1949 sea duty pay for enlisted personnel approximated 10 percent of basic pay; by 1979, however, with the various intervening increases in military pay rates, sea duty pay had declined in general to something less than 2.5 percent of basic pay. When increases in the consumer price level were also taken into account, the decline in the value of sea duty pay to recipient personnel became even more pronounced in terms of the "morale factor" that had been the intellectual underpinning of enlisted sea duty pay in the first instance. As a result, sea duty pay had come more and more to be regarded as a "token" payment and, as such, had little incentive—or, for that matter, morale—value for affected personnel.

To address a perceived problem with retention of qualified enlisted personnel in the Navy, the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §804(a)(1), 92 Stat. 1611, 1620–1621 (1978), adopted a new special pay for "career sea duty." Under that program, an enlisted member of a uniformed service in pay grade E-4 or above who had served more than three years on "sea duty" became

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[1] *Career Compensation For the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 28–29. (In recommending against continuation of sea duty pay for officers, the commission noted that "[u]nusual expenses incurred by virtue of foreign or sea duty may be reimbursable under the post and duty allowance recommended by the Commission." See *id*., 29. Despite the Hook Commission's recognition of the possibility of higher costs or expenses incurred by personnel assigned to sea or foreign duty, Congress, in acting on the commission's recommendations, did not adopt any special allowance program to assist affected personnel in defraying such costs.)

[2] But see the parenthetical in footnote 1 to this chapter, above.

[3] H. R. Rep. No. 81-779 (Committee on Armed Services), at 16, accompanying H.R. 5007, 81st Cong., 1st sess. (1949). Also see S. Rep. No. 81-733 (Committee on Armed Services), at 19, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[4] Section 206 of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §206, 63 Stat. 802, 811 (1949), which dealt with sea duty pay, also covered foreign duty pay. After enactment of the Career Compensation Act of 1949, ch. 681, *id*., the sea and foreign duty pay provisions thereof were classified to 37 U.S.C. §237. See 37 U.S.C. §237 (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the provisions for sea and foreign duty pay were codified at 37 U.S.C. §305. For an explanation of foreign duty pay, formally denominated "special pay while on duty at certain places" [37 U.S.C. §305], and the reasons for its adoption, see Chapter II.E.2.f. hereof, "Special Pay While on Duty at Certain Places (Hardship Duty Pay)," below.

entitled to so-called "career sea pay" when actually performing such duty. As authorized, career sea pay varied depending on the number of years of cumulative sea duty, with persons having more sea duty entitled to greater amounts of pay.[5] For fiscal years 1979 and 1980, three cumulative-years-of-sea-duty categories were authorized—over three years, over five, and over 12; for fiscal year 1981, four—over three years, over five, over seven, and over 12; and beginning October 1, 1981, seven—over three, over five, over seven, over nine, over 10, over 11, and over 12. For fiscal years 1979, 1980, and 1981, pay rates for career sea duty varied from a low of $25 per month to a high of $55; beginning October 1, 1981, such rates were programmed to vary from a low of $25 per month to a high of $100. In implementing the program for career sea pay, a member was to be credited with all periods of sea duty served before the effective date of the new pay—namely, October 1, 1978. The "career sea pay" provisions of the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, *id*., were codified at 37 U.S.C. §305a.

"Career sea pay" was initially proposed as a part of the Carter administration's Defense Legislative Program for the 95th Congress. In a departmental recommendation, the Department of Defense noted that sea pay had "historically been a means of recognizing and compensating those who were willing to serve under the unique conditions of service associated with sea duty."[6] Among the unique conditions cited were (1) cramped living and working conditions aboard ship, (2) the unpredictability of operating schedules of Navy ships, (3) limited recreational facilities at sea, (4) in-port duties assigned to shipboard personnel to maintain ship readiness, (5) long working hours at sea, (6) long and repetitive deployments, and (7) family separations.[7] Because of the "unattractive" features associated with the "unique conditions" of sea duty and the "competition for quality manpower among the services and with civilian industry," the Department of Defense recommended a new career sea pay program to achieve "stabilized manning [of Navy ships] with experienced personnel."[8] Although recommended to Congress as a "special pay," the "career sea pay" proposal was held out by the Department of Defense as being very important in "influencing the decision of skilled individuals to continue a career of service entailing repetitive reassignment to duty at sea."[9] In short, the Department of Defense's "career sea pay" proposal may appropriately be regarded as an incentive pay designed to meet manpower management goals. Congress agreed with the need to meet such goals and, noting that rates for sea duty pay had not been "adjusted" since originally established in 1949, adopted the Department of Defense proposal in order to, in Congress's own words,

> (1) establish rates which would be more meaningful compared to current compensation levels;
>
> (2) offer increased rates for increased years of sea duty experience; [and]

[5] For a partial precursor of this provision, see the discussion of the Act of June 1, 1860, ch. 67, §1, 12 Stat. 23, 24 (1860), in this chapter, above.

[6] Quoted in S. Rep. No. 95-826 (Committee on Armed Services), at 124, accompanying S. 2571, 95th Cong., 2d sess. (1978) (enclosure to letter from W. Graham Claytor, Jr., Secretary of the Navy, as designated representative of the Department of Defense on the recommended sea-pay legislation).

[7] S. Rep. No. 95-826 (Committee on Armed Services), at 124, accompanying S. 2571, 95th Cong., 2d sess. (1978) (enclosure to letter from W. Graham Claytor, Jr., Secretary of the Navy, as designated representative of the Department of Defense on the recommended sea-pay legislation).

[8] S. Rep. No. 95-826 (Committee on Armed Services), at 124–26, accompanying S. 2571, 95th Cong., 2d sess. (1978) (enclosure to letter from W. Graham Claytor, Jr., Secretary of the Navy, as designated representative of the Department of Defense on the recommended sea-pay legislation).

[9] S. Rep. No. 95-826 (Committee on Armed Services), at 124, accompanying S. 2571, 95th Cong., 2d sess. (1978) (enclosure to letter from W. Graham Claytor, Jr., Secretary of the Navy, as designated representative of the Department of Defense on the recommended sea-pay legislation).

(3) remain within reasonable budgetary limitations.[10] [11]

Before the provisions of the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, *id*., relating to fiscal year 1981 became effective, the rates of pay for career sea duty were changed by the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §3(a), 94 Stat. 1123, 1124 (1980). As explained in the Conference Report, the rates of career sea pay that would have become effective on October 1, 1981, were increased by 15 percent and made effective on September 1, 1980, a year before they were due to become effective under the 1979 Appropriation Authorization Act. The reason for this increase in and acceleration of the effective date of the career sea pay rates was identified as the Navy's shortage of petty officers—particularly those with from six to 12 years of service.[12] This provision, put forward as a floor amendment to a proposal that would have adopted an across-the-board increase in basic pay rates,[13] was said to be specially "targeted" or "focused" on special retention problem areas,[14] and was proposed by the Senate to provide retention incentives to Navy personnel coming to the end of their first term of enlistment.

The Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §4(a), 94 Stat. 3359, 3364–3366 (1980), adopted an entirely new structure of special pay for "career sea duty." Effective January 1, 1981,[15] special pay for career sea duty was authorized for officers as well as enlisted personnel in pay grades E-4 and above, with the exception of officers in pay grades O-1 and O-2 who had less than four years of active enlisted or noncommissioned warrant officer service. The rates of career sea pay for enlisted personnel were increased substantially and, for all personnel, made to depend on pay grade and years of cumulative sea duty. In addition, under the new structure for career sea pay, all qualifying enlisted members—i.e., all such members in pay grade E-4 or above—and all warrant officers actually assigned to sea duty were entitled to career sea pay, not just those with more than three years of sea duty; in the case of officers, however, only those with more than three years of sea duty were entitled to such pay. Finally, a special provision allowed a $100 per month career sea pay "premium" to be paid to any member of a uniformed service entitled to career sea pay for each subsequent month of sea duty served immediately following completion of 36 months of consecutive sea duty. Under the act, career sea pay was payable to qualifying personnel assigned to a ship, a ship-based staff, or a ship-based aviation unit while actually serving on a ship.[16] [17] Under amendments made by the Uniformed Services Pay Act

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[10] S. Rep. No. 95-826 (Committee on Armed Services), at 122, accompanying S. 2571, 95th Cong., 2d sess. (1978) (enclosure to letter from W. Graham Claytor, Jr., Secretary of the Navy, as designated representative of the Department of Defense on the recommended sea-pay legislation).

[11] As ultimately adopted, the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §804(c), 92 Stat. 1611, 1621 (1978), contained a saved-pay provision that allowed all personnel receiving special pay for sea duty under preexisting 37 U.S.C. §305 who were not eligible for "career sea pay" under the new 37 U.S.C. §305a to continue to receive the old sea duty pay until September 30, 1981. See 37 U.S.C. §305 note, where the text of Section 804(c) of the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, *id*., §804(c), 92 Stat. 1621, is reproduced.

[12] See, e.g., 126 Cong. Rec. S829, S840, S841, S859, S860, S868 (daily ed. February 4, 1980).

[13] The proposal for an across-the-board pay raise was not adopted as a part of the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, *id*., but was instead adopted as part of the Department of Defense Authorization Act, 1981 Pub. L. No. 96-342, 94 Stat. 1077, 1090–1091 (1980), enacted the same day.

[14] See, e.g., 126 Cong. Rec. S841 (daily ed. February 4, 1980).

[15] Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., §4(b), 94 Stat. 3366.

[16] In the case of service on a ship having a primary mission normally performed in port, career sea pay was payable only when the ship was away from its homeport 30 consecutive days or more. See 37 U.S.C. §305a(d) (2) as in effect after adoption of the Military Pay and Allowances Benefits Act of 1980.

[17] The saved-pay provision incorporated in the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, *id*., was not affected by the new provisions for career sea duty in the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*. See footnote 11, above.

of 1981, Pub. L. No. 97-60, §116, 95 Stat. 989, 996 (1981), career sea pay also became payable to members of the "off-crew" of a two-crew submarine.[18]

According to the Senate report on the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., rates for career sea duty pay were increased because such action "specifically targets manpower dollars in an efficient way to improve the retention of Naval personnel in sea service skills."[19] In extending entitlements to career sea pay to officers for the first time since 1949, despite the fact such authority had not been sought by the administration, Congress, citing the "long history of granting officers at sea a differential in pay," specifically addressed itself to, and abandoned, the Hook Commission's 1948 conclusion that special pay to officers for sea duty was not warranted because "sea duty was normal service for Navy officers."[20] Officer sea pay was reinstituted "because of the arduous duty and family separations involved in long deployments at sea and because of retention problems among Navy officers in certain skills."[21] "Premium career sea pay" for three or more years of consecutive sea duty was, on the other hand, adopted at the urging of the Navy "to compensate ... members who are on prescribed sea tours of greater than three years and as an incentive for ... members who are on three year shore tours or less and who volunteer beyond the prescribed sea service tour."[22] As explained by the Navy, the revised program for career sea pay was intended primarily to address retention problems:

> Sea pay rates at the current level are insignificant in relation to basic pay and as such are not achieving career force retention and accession objectives which currently impact the at sea manning. The additional compensation realized from the proposed sea pay will be most effective in the retention of skilled enlisted personnel. This sea pay proposal is a specifically directed cost-effective method of correcting the critical shortage of career force personnel in sea duty assignments.[23]

Taken together, the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, *id*., and the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., highlight the incentive purpose intended to be served by the current version of sea pay—namely, to induce service personnel to enter on, and remain in, skill specialties entailing career sea duty.

The Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §623(a), 98 Stat. 2492, 2541 (1984), further revised career sea pay, increasing the rates of pay for enlisted members in pay grades E-6 through E-9 and adding four additional cumulative-years-of-sea-duty categories for all qualifying enlisted personnel—more than 13, 14, 16, and 18 years.[24] As explained by Congress,

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[18] As explained by Senator Tower of Texas, who offered the provision in question as a floor amendment to a bill that did not otherwise address career sea pay, the purpose of extending entitlement to such pay to the off-crew of a two-crew submarine was "to correct what we believe to be a deficiency and ... to be an incentive and a compensation to these crews for our SSBN vessels [ballistic missile submarines] that do have to remain on station for a prolonged period of time." See 127 Cong. Rec. 20171 (1981) (127 Cong. Rec. S9393 (daily ed. September 10, 1981)) (statement of Senator Tower). In particular, Senator Tower pointed out that affected crew members, spending 50 percent of their time at sea, frequently spent more time at sea than other personnel entitled to career sea pay. He also pointed out that, since officers had to have three years of cumulative sea duty before being entitled to career sea pay, officers on two-crew submarines took excessively long to qualify for such pay, with adverse effects on retention incentives. See *id.*

[19] S. Rep. No. 96-1051 (Committee on Armed Services), at 2, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[20] S. Rep. No. 96-1051 (Committee on Armed Services), at 2, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[21] S. Rep. No. 96-1051 (Committee on Armed Services), at 3, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[22] S. Rep. No. 96-1051 (Committee on Armed Services), at 27, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[23] S. Rep. No. 96-1051 (Committee on Armed Services), at 27, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[24] Pursuant to Section 623(c) of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, *id*., §623(c), 98 Stat. 2542, these revisions to career sea pay for enlisted personnel became effective October 1, 1984.

> ... the increased rates of career sea pay should provide a substantial incentive for enlisted personnel to remain at sea. This, in turn, should ease sea-to-shore rotation pressures, thereby facilitating increased utilization of the reserves.[25]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §634(a), 99 Stat. 583, 647 (1985), increased the rates of career sea pay for warrant officers in pay grades W-3 and W-4 and added four new cumulative-years-of-sea-duty categories for all warrant and commissioned officers—namely, more than 14, 16, 18, and 20 years. In addition, the 1986 Authorization Act, Pub. L. No. 99-145, *id*., also removed the prohibition on payment of career sea pay to officers in pay grades O-1 and O-2 with fewer than four years of active enlisted or noncommissioned warrant officer service. The legislative history of the 1986 Authorization Act does not indicate the reason for these increases,[26] primarily because no report was ever submitted on the Senate bill, S. 1160, 99th Cong., 1st sess. (1985), in which the career sea pay "enhancements" were first proposed.[27] In fact, the career sea pay "enhancements" adopted as part of the 1986 Authorization Act exactly mirror recommendations advanced by the Fifth Quadrennial Review of Military Compensation in 1984.[28] In support of its recommendations concerning career sea pay for officers, the Fifth Quadrennial Review had stated:

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[25] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[26] See S. Rep. No. 99-118 (Committee of Conference), at 431, and H.R. Rep. No. 99-235 (Committee of Conference), at 431, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[27] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

> ... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.
>
> When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....
>
> Most of the Senate Report 99-41 continues to be applicable to this bill....

131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... In addition, the Committee recommended increases or enhancements to a number of special and incentive pays....
>
> The special and incentive pays ... involved in these recommendations include:
>
> e. Career sea pay.
>
> Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither Senate Report No. 99-41 nor the "explanatory background material" provided by Senator Goldwater specifically dealt with the "enhancements" to the career sea pay program contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

[28] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001.

> ... It is appropriate to establish incremental rates beyond 12 years through 20 years of sea duty to properly compensate those personnel with such creditable sea time for the hardships of sea duty. A new maximum of $410 is sufficient.
>
> ... Commissioned officers should be eligible for Career Sea Pay after accruing three years' creditable sea service, regardless of paygrade [sic].[29]

With respect to the extension of career sea pay to all officers in pay grades O-1 and O-2 with over three years of sea duty, the Fifth Quadrennial Review also stated:

> Related to th[e] issue of junior personnel [being entitled to career sea duty pay] is the dual requirement for officer personnel both to be in pay grade O-3 and to have accrued three years' creditable sea duty before eligibility to draw Career Sea Pay. The intent of Congress appears to have been to preclude officers from drawing the pay until they had served an appropriate period of apprenticeship at sea. The three-year minimum will accomplish this.
>
> For those O-2's who accrue three years' creditable sea service prior to regular promotion to O-3, it is an inappropriate penalty to preclude payment of Career Sea Pay. Additionally, in this period of improved retention, promotion flow points may change. This has already occurred in the NOAA [National Oceanic and Atmospheric Administration, one of the uniformed services whose members are frequently assigned to sea duty] corps. Thus, officers may be beyond their obligated service and have up to 4 1/2 years of sea service before promotion to O-3. Congress stated that they were reinstating officer sea pay "because of the arduous duty involved in long deployments and because of the retention problems among Navy officers in certain skills." Surface warfare O-2's, less than a 1000 of whom would be affected by this change, continue to have retention rates well below 50 percent.[30]

It would appear that Congress was persuaded by the analysis and reasoning of the Fifth Quadrennial Review.

The National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §621, 101 Stat. 1019, 1097–1100 (1987), further revised career sea pay, again at the urging of the Department of Defense. This revision made three structural changes and adopted a "save pay" provision. First, the 1988/1989 Authorization Act, Pub. L. No. 100-180, *id*., adjusted the rates of career sea duty pay for enlisted personnel and warrant officers, making no adjustments to the rates for commissioned officers. Under these adjustments, career sea duty pay rates for enlisted personnel with more than five years of sea duty were generally increased; rates for enlisted personnel with fewer than five years of sea duty were generally decreased; and rates for warrant officers in pay grades W-1, W-2, and W-3 with more than nine years of sea duty and warrant officers in pay grade W-4 with more than 10 years of sea duty were increased. Second, entitlements to the career sea pay premium for enlisted personnel in pay grades above E-4 with more than five years of sea duty were eliminated. The combined effect of these two changes is that enlisted personnel with more than five years of sea duty are now automatically entitled to roughly the same career sea duty pay they would have been entitled to if they had served more than 36 consecutive months of sea duty and had accordingly been entitled to the career sea duty premium in addition to their regular career sea duty pay. Third, the definition of "sea duty" was changed in two particulars: first, in contrast to prior practice, the term "sea duty" as now defined includes all time spent on a ship the primary mission of which is accomplished in port, so that if a member is assigned to such duty for, e.g., two years, the member would be given credit for two years of sea duty for the purpose of determining the

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[29] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 604–5. Also see *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 24–25, 605; and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-10 and 11. (The rates of career sea pay for commissioned and warrant officers adopted in the 1986 Authorization Act are the same as those proposed by the Fifth Quadrennial Review in the *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, table at 603.)

[30] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 604; *cf. id*., 24–25.

amount of career sea pay to which the member might be entitled during the next sea-duty assignment; and second, members assigned to ships the primary mission of which is accomplished in port are eligible to draw sea pay whenever the ship is away from its homeport, whereas under prior practice members assigned to such ships were entitled to sea pay only when their ship was away from its homeport for more than 30 consecutive days. Finally, in a change that did not effectively revise career sea pay, the 1988/1989 Authorization Act, Pub. L. No. 100-180, *id*., adopted a "save pay" provision to ensure that personnel whose entitlements to career sea pay would otherwise have been cut under the new rates did not in fact suffer any cut in entitlement so long as they remained assigned to the same sea duty station. As explained by the House Armed Services Committee:

> The committee recommends restructuring Career Sea Pay: (1) to provide increased compensation to those on their second sea tour and less to those on their first sea tour; (2) to protect members during fiscal year 1988 who would be adversely affected by the change with a "save pay" provision; and (3) to correct a sea pay inequity associated with members assigned to ships whose primary mission is accomplished in port.
>
> Specifically, [the Committee proposal] would increase the rates of Career Sea Pay for enlisted members with more than five years of cumulative sea duty and eliminate the Career Sea Pay premium for these members. Rates for warrant officers would also be adjusted to avoid potential pay inversions associated with the small number of enlisted members annually selected as warrants who would continue sea intensive careers. In addition, this [proposal] would permit all time assigned to and served in ships whose primary mission to accomplished [sic] in port (e.g. destroyer and submarine repair ships and tenders) to be credited as sea duty and allow members assigned to these ships to receive Career Sea Pay for each day the ship is away from homeport.[31]
>
> Career sea pay and the career sea pay premium are not authorized for Reserve Forces personnel performing inactive-duty training.

Following passage of the National Defense Authorization Act for Fiscal Years 1988 and 1989, rates of special pay for career sea duty for Navy personnel were:[32]

COMMISSIONED OFFICERS

Pay Grade	**Years of Sea Duty**						
	OVER 3	**OVER 4**	**OVER 5**	**OVER 6**	**OVER 7**	**OVER 8**	**OVER 9**
O-1	$150	$160	$185	$190	$195	$205	$215
O-2	150	160	185	190	195	205	215
O-3	150	160	185	190	195	205	215
O-4	185	190	200	205	215	215	220
O-5	225	225	225	225	230	245	250
O-6	225	230	230	240	255	265	280

[31] H.R. Rep. No. 100-58 (Committee on Armed Services), at 204, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). *Cf*. S. Rep. No. 100-57 (Committee on Armed Services), at 146, accompanying S. 1174, and H.R. Rep. No. 100-446 (Committee of Conference), at 643, 100th Cong., 1st sess. (1987).

[32] The Warrant Officer Management Act, enacted as Title XI of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, 105 Stat. 1290, 1491–1506 (1991), established the new warrant officer pay grade, W-5, National Defense Authorization Act for Fiscal Years 1992 and 1993, *id*., §1111(a), 105 Stat. 1491, and authorized members serving in that pay grade to receive special pay for career sea duty at the rates set out on the lines relating to that pay grade in the table below, National Defense Authorization Act for Fiscal Years 1992 and 1993, *id*., §1111(d)(3), 105 Stat. 1492. For the reasons underlying the establishment of the new pay grade, see Chapter II.B.1 hereof, above, "Basic Pay."

O-1	$225	$225	$240	$250	$260	$270	$280
O-2	225	225	240	250	260	270	280
O-3	225	225	240	260	270	280	290
O-4	225	225	240	270	280	290	300
O-5	260	265	265	285	300	315	340
O-6	290	300	310	325	340	355	380

WARRANT OFFICERS

Pay Grade	**Years of Sea Duty**					
	LESS THAN 1	**OVER 1**	**OVER 2**	**OVER 3**	**OVER 4**	**OVER 5**
W-1	$130	$135	$140	$150	$170	$175
W-2	150	150	150	150	170	260
W-3	150	150	150	150	170	270
W-4	150	150	150	150	170	290
W-5	150	150	150	150	170	290

Pay Grade						
	OVER 6	**OVER 7**	**OVER 8**	**OVER 9**	**OVER 10**	**OVER 11**
W-1	$200	$250	$270	$300	$325	$325
W-2	265	265	270	310	340	340
W-3	280	285	290	310	350	375
W-4	310	310	310	310	350	375
W-5	310	310	310	310	350	375

Pay Grade					
	OVER 12	**OVER 14**	**OVER 16**	**OVER 18**	**OVER 20**
W-1	$340	$360	$375	$375	$375
W-2	375	400	400	400	400
W-3	400	425	425	450	450
W-4	400	450	450	500	500
W-5	400	450	450	500	500

ENLISTED MEMBERS

Pay Grade	**Years of Sea Duty**			
	1 OR LESS	**OVER 1**	**OVER 2**	**OVER 3**
E-4	$50	$60	$120	$150
E-5	50	60	120	150
E-6	100	100	120	150
E-7	100	100	120	175
E-8	100	100	120	175
E-9	100	100	120	175

Pay Grade				
	OVER 5	**OVER 6**	**OVER 7**	**OVER 8**
E-4	$160	$160	$160	$160
E-5	315	325	350	350
E-6	315	325	350	350
E-7	350	350	375	390

E-8	350	350	375	390
E-9	350	350	375	390

Pay Grade

	OVER 9	OVER 10	OVER 11	OVER 12
E-4	$160	$160	$160	$160
E-5	350	350	350	350
E-6	365	365	365	380
E-7	400	400	410	420
E-8	400	400	410	420
E-9	400	400	410	420

Pay Grade

	OVER 13	OVER 14	OVER 16	OVER 18
E-4	$160	$160	$160	$160
E-5	350	350	350	350
E-6	395	410	425	450
E-7	450	475	500	500
E-8	450	475	500	520
E-9	450	475	520	520

The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-156 (2000), made substantial changes in the rate structure for both career sea pay and the career sea pay premium. The congressionally established pay table that had been in existence since the Military Pay and Allowances Benefits Act of 1980 was eliminated, and the "Secretary concerned" received authorization to prescribe the rates for all members serving under his/her jurisdiction. This meant in effect personnel of each branch received career sea duty pay at a different rate in the relatively rare case of an Army or Air Force member being assigned to long-term sea duty. The maximum monthly rate was set at $750.

As the law stood following the National Defense Authorization Act for Fiscal Years 1988 and 1989, the amount of the career sea pay premium remained $100 for all members, with the exclusion of those in grade E-4 with more than five years of sea duty. The revisions in the National Defense Authorization Act for Fiscal Year 2001 eliminated that exclusion. As in the case of regular career sea pay, authorization for setting rates for the premium pay was moved from "regulations prescribed by the President" to the "Secretary concerned." Although the law stipulated a maximum of $350 per month, in practice the amount of this pay remained at $100 for all members through FY 2004.

Until 2003, the conditions of entitlement to career sea pay and premium career sea pay for uniformed services personnel were set out in Sections 201 and 202 of Executive Order 11157, as amended, in various supplementary regulations adopted by the service Secretaries pursuant to Section 203 of Executive Order 11157, and in the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R.[33] Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301(a), relevant to career sea pay and other incentive pays, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments. This change reflected the change from presidential authority to departmental authority that had been prescribed for setting the amounts

[33] See, in particular, *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, Part 1, Chapter 18, Section A, ¶¶11801–11806 (Career Sea Pay), and Section B, ¶¶11811–11813 (Premium Career Sea Pay).

and conditions of career duty pay in §630 of the National Defense Authorization Act for Fiscal Year 2001. Thus the rates for career sea duty pay continued to vary among the branches.

Current rates of pay for career sea duty: As of FY 2016, the pay rates for career sea duty for Navy personnel were as follows (Navy personnel pay rates were effective May 1, 2014):[34]

Career Sea Pay Rates

The following Officer Career Sea Pay rates apply to all Army, Navy, Marine Corps, and Air Force Officers. Pay rates for Navy and Marine Corps personnel were effective May 1, 2014; pay rates for Air Force members were effective May 1, 1988; and Army members' pay rates were effective October 1, 2002. [35]

In addition, regulations specify that Army members who are entitled to career sea pay (CSP) for duty between October 1 2002 and June 30 2003 and who are in pay grades E-5 and E-9 are not to be paid career sea pay premium (CSP-P). Similarly, Army members who are entitled to CSP for duty on or after July 1 2003 and who are in pay grades E-4 through E-9 or W-1 through W-5 are not be paid CSP-P. For Navy and Marine Corps members, CSP-P is $200 per month except for personnel who are in pay grades E-5 through E-9 with more than eight (8) cumulative years of sea duty; their CSP includes CSP-P. Air Force members who are entitled to CSP and who are in pay grades E-5 through E-9 with more than five (5) cumulative years of sea duty are not to be paid CSP-P. [36]

Note: The years noted here are cumulative years of sea duty.

Pay Grade	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8	Over 9
O-6A				225	230	230	240	255	265	280
O-6N	100	100	100	394	400	400	419	450	463	494
O-6AF				225	230	230	240	255	265	280
O-5A				225	225	225	225	230	245	250
O-5N	100	100	100	394	394	394	394	400	431	438
O-5AF				225	225	225	225	230	245	250
O-4A				185	190	200	205	215	220	220
O-4N	100	100	100	325	331	350	356	375	388	388
O-4AF				185	190	200	205	215	220	220
O-3A				150	160	185	190	195	205	215
O-3N	100	100	100	263	281	325	331	344	356	375
O-3AF				150	160	185	190	195	205	215
O-2A				150	160	185	190	195	205	215

[34] U.S. Department of Defense, Undersecretary of Defense (Comptroller), "Military Pay Policy—Active Duty and Reserve Pay," vol. 7A of DoD 7000.14-R: Financial Management Regulation, April 2016, http://comptroller.defense.gov/Portals/45/documents/fmr/Volume_07a.pdf.
[35] U.S. Department of Defense, Undersecretary of Defense (Comptroller), "Military Pay Policy—Active Duty and Reserve Pay," vol. 7A of DoD 7000.14-R: Financial Management Regulation, April 2016, http://comptroller.defense.gov/Portals/45/documents/fmr/Volume_07a.pdf.
[36] U.S. Department of Defense, Undersecretary of Defense (Comptroller), "Military Pay Policy—Active Duty and Reserve Pay," vol. 7A of DoD 7000.14-R: Financial Management Regulation, April 2016, http://comptroller.defense.gov/Portals/45/documents/fmr/Volume_07a.pdf.

Pay Grade	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8	Over 9
O-2N	100	100	100	263	281	325	331	344	356	375
O-2AF				150	160	185	190	195	205	215
O-1A				150	160	185	190	195	205	215
O-1N	100	100	100	263	281	325	331	344	356	375
O-1AF				150	160	185	190	195	205	215
W-5A	210	210	210	310	338	506	534	534	534	534
W-5N	210	210	210	263	300	506	544	544	544	544
W-4A	210	210	210	310	338	506	534	534	534	534
W-4N	210	210	210	263	300	506	544	544	544	544
W-3A	210	210	210	310	338	506	492	499	506	534
W-3N	210	210	210	263	300	475	494	500	506	544
W-2A	210	210	210	310	338	464	471	471	478	534
W-2N	210	210	210	263	300	456	463	463	475	544
W-1A	182	189	196	310	338	345	380	450	478	520
W-1N	180	190	195	263	300	306	350	438	475	525

Pay Grade	Over 10	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18	Over 20
O-6A	290	300	310	310	325	340	355	380
O-6N	506	525	544	544	569	594	625	669
O-6AF	290	300	310	310	325	340	355	380
O-5A	260	265	265	265	285	300	315	340
O-5N	456	463	463	463	500	525	550	594
O-5AF	260	265	265	265	285	300	315	340
O-4A	225	225	240	240	270	280	290	300
O-4N	394	394	419	419	475	494	506	525
O-4AF	225	225	240	240	270	280	290	300
O-3A	225	225	240	240	260	270	280	290
O-3N	394	394	419	419	456	475	494	506
O-3AF	225	225	240	240	260	270	280	290
O-2A	225	225	240	240	250	260	270	280
O-2N	394	394	419	419	438	456	475	494
O-2AF	225	225	240	240	250	260	270	280
O-1A	225	225	240	240	250	260	270	280
O-1N	394	394	419	419	438	456	475	494
O-1AF	225	225	240	240	250	260	270	280
W-5A	590	625	660	660	730	730	730	730

Pay Grade	Over 10	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18	Over 20
W-5N	613	656	700	700	750	750	750	750
W-4A	590	625	660	660	730	730	730	730
W-4N	613	656	700	700	750	750	750	750
W-3A	590	625	660	660	695	695	695	695
W-3N	613	656	700	700	744	744	750	750
W-2A	576	576	625	625	625	625	625	625
W-2N	594	594	656	66	700	700	700	700
W-1A	555	555	555	555	555	555	555	555
W-1N	569	569	594	594	631	656	656	656

NOTE:

N after the pay grade denotes Navy and Marine Corps rates.
A after the pay grade denotes Army rates.
AF after the pay grade denotes Air Force rates.

Pay Grade	1 or less	Over 1	Over 2	Over 3	Over 4
E-9A	130	130	156	328	347
E-9N	135	135	160	381	400
E-9AF	100	100	120	175	190
E-8A	130	130	156	328	347
E-8N	135	135	160	381	400
E-8AF	100	100	120	175	190
E-7A	130	130	156	328	347
E-7N	135	135	160	381	400
E-7AF	100	100	120	175	190
E-6A	130	130	156	295	321
E-6N	135	135	160	350	375
E-6AF	100	100	120	150	170
E-5A	65	78	156	295	321
E-5N	70	80	160	350	375
E-5AF	50	60	120	150	170
E-4A	65	78	156	295	308
E-4N	70	80	160	350	363
E-4AF	50	60	120	150	160
E-3A	50	60	120	150	160
E-3N	50	60	100	125	125
E-2A	50	60	120	150	160
E-2N	50	60	75	94	94

E-1A	50	60	120	150	160
E-1N	50	50	50	63	63

Pay Grade	Over 5	Over 6	Over 7	Over 8	Over 9	Over 10
E-9A	425	425	458	477	490	490
E-9N	438	438	469	688	700	700
E-9AF	350	350	375	390	400	400
E-8A	425	425	458	477	490	490
E-8N	438	438	469	688	700	700
E-8AF	350	350	375	390	400	400
E-7A	425	425	458	477	490	490
E-7N	438	438	469	688	700	700
E-7AF	350	350	375	390	400	400
E-6A	380	393	425	425	445	445
E-6N	394	406	438	638	656	656
E-6AF	315	325	350	350	365	365
E-5A	380	393	425	425	425	425
E-5N	394	406	438	638	638	638
E-5AF	315	325	350	350	350	350
E-4A	308	308	308	308	308	308
E-4N	363	363	363	488	488	488
E-4AF	160	160	160	160	160	160
E-3A	170	190	190	190	190	190
E-3N	125	125	125	125	125	125
E-2A	170	170	170	170	170	170
E-2N	94	94	94	94	94	94
E-1A	160	160	160	160	160	160
E-1N	63	63	63	63	63	63

Pay Grade	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18	Over 20
E-9A	503	516	555	588	620	646	646
E-9N	713	725	750	750	750	750	750
E-9AF	410	420	450	475	520	520	520
E-8A	503	516	555	588	620	646	646
E-8N	713	725	750	750	750	750	750
E-8AF	410	420	450	475	500	520	520
E-7A	503	516	555	588	620	620	620

Pay Grade	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18	Over 20
E-7N	713	725	750	750	750	750	750
E-7AF	410	420	450	475	500	500	500

Pay Grade	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18	Over 20
E-6A	445	464	484	503	523	555	555
E-6N	656	675	694	713	731	750	750
E-6AF	**365**	**380**	**395**	**410**	**425**	**450**	**450**
E-5A	425	425	425	425	425	425	425
E-5N	638	638	638	638	638	638	638
E-5AF	350	350	350	350	350	350	350
E-4A	308	308	308	308	308	308	308
E-4N	488	488	488	488	488	488	488
E-4AF	160	160	160	160	160	160	160
E-3A	190	190	190	190	190	190	190
E-3N	125	125	125	125	125	125	125
E-2A	170	170	170	170	170	170	170
E-2N	94	94	94	94	94	94	94
E-1A	160	160	160	160	160	160	160
E-1N	63	63	63	63	63	63	63

NOTE:

N after the pay grade denotes Navy and Marine Corps rates.
A after the pay grade denotes Army rates.
AF after the pay grade denotes Air Force rates.

Cost: For the cost of career sea pay and premium career sea pay through 2016, see tables II-20A–C, below.

Table II-20A. Career Sea Pay, 1972–2016

Fiscal Year	Total Personnel	Total Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	212,270	$34,297	---	---	212,270	$34,297
1973	257,560	34,564	---	---	257,560	34,564
1974	197,852	30,235	---	---	197,852	30,235
1975	194,420	29,932	---	---	194,420	29,932
1976	186,893	29,219	---	---	186,893	29,219
1977	177,919	27,442	---	---	177,919	27,442
1978	170,794	26,345	---	---	170,794	26,345
1979	128,067	17,962	---	---	128,067	17,962
1980	95,665	14,369	---	---	95,665	14,369
1981*	93,658	127,472	5,362	$10,061	88,296	117,411

Fiscal Year	Total Personnel	Total Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1982	106,837	185,677	6,514	16,570	100,323	169,107
1983	118,877	209,636	6,715	16,952	112,162	192,684
1984	122,445	220,621	6,927	17,533	115,518	203,088
1985	121,180	221,441	6,932	17,478	114,248	203,963
1986	124,163	227,024	7,262	18,274	116,901	208,750
1987	128,642	236,514	7,370	18,561	121,272	217,953
1988	130,971	257,080	7,432	19,075	123,539	238,005
1989	137,250	287,758	7,493	19,231	129,757	268,527
1990	136,738	285,276	7,456	18,965	129,282	266,311
1991	138,601	287,845	7,986	20,154	130,615	267,691
1992	125,612	270,002	7,149	18,465	118,463	251,537
1993	118,024	258,158	6,953	18,062	111,071	240,096
1994	108,948	240,936	6,470	16,929	102,478	224,007
1995	100,054	231,338	5,961	15,489	94,093	215,849
1996	115,854	257,541	7,479	17,318	108,375	240,223
1997	112,127	255,938	7,621	17,733	104,506	238,205
1998	99,075	251,578	7,139	16,783	91,936	234,795
1999	100,780	228,998	6,552	15,589	94,228	213,409
2000	101,200	219,508	8,496	15,349	92,704	204,159
2001	101,795	219,468	8,487	15,391	93,308	204,077
2002	111,063	235,715	9,309	18,972	101,754	216,743
2003	158,578	338,903	15,957	31,137	142,621	307,766
2004	157,495	318,383	13,096	28,727	144,399	289,656
2005	128,467	290,445	12,702	26,349	115,765	264,096
2006	136,946	279,274	12,386	25,797	124,560	253,477
2007	115,834	266,816	12,259	25,551	103,575	241,265
2008	109,688	253,992	10,044	23,933	99,644	230,059
2009	107,233	246,985	10,283	25,193	96,950	221,792
2010	108,520	245,919	10,495	25,295	98,025	220,624
2011	100,078	224,646	10,820	25,667	89,258	198,979
2012	104,784	237,165	10,276	24,449	94,508	212,716
2013	103,716	231,706	10,241	24,579	93,475	207,127
2014	102,306	248,065	10,193	26,331	92,113	221,734
2015	106,683	282,030	10,263	28,743	96,420	253,287
2016[1]	104,092	280,983	10,290	28,769	93,802	252,214

[1]Estimate; --- No data available.

Note: Officers were not entitled to career sea duty pay until 1981.

Table II-20B. Career Sea Pay Premium, 1981–2016

Fiscal Year	Total Personnel	Total Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1981	10,445	$9,423	927	$857	9,518	$8,566
1982	11,759	14,111	1,509	1,811	10,250	12,300
1983	14,550	17,460	1,527	1,832	13,023	15,628

Fiscal Year	Total Personnel	Total Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1984	20,715	24,858	1,622	1,946	19,093	22,912
1985	23,842	28,610	1,772	2,126	22,070	26,484
1986	24,995	29,994	2,082	2,498	22,913	27,496
1987	26,255	31,506	2,083	2,500	24,172	29,006
1988	23,816	28,579	2,019	2,423	21,797	26,156
1989	18,216	21,860	2,023	2,428	16,193	19,432
1990	18,858	22,630	1,900	2,280	16,958	20,350
1991	17,697	21,236	1,675	2,010	16,022	19,226
1992	18,221	21,865	1,596	1,915	16,625	19,950
1993	18,121	21,745	1,591	1,909	16,530	19,836
1994	15,223	18,268	1,500	1,800	13,723	16,468
1995	13,765	16,518	1,214	1,457	12,551	15,061
1996	14,277	15,534	1,332	1,598	12,945	15,534
1997	13,879	15,085	1,308	1,570	12,571	15,085
1998	13,122	14,369	1,148	1,378	11,974	14,369
1999	11,017	12,107	928	1,114	10,089	12,107
2000	11,031	12,112	938	1,126	10,093	12,112
2001	11,933	13,273	872	1,046	11,061	13,273
2002	13,914	15,665	860	1,032	13,054	15,665
2003	15,475	17,648	768	922	14,707	17,648
2004	16,713	19,207	707	848	16,006	19,207
2005	16,639	19,966	622	746	16,017	19,220
2006	17,623	21,147	691	829	16,932	20,318
2007	16,859	20,231	756	907	16,103	19,324
2008	16,474	19,768	712	854	15,762	18,914
2009	15,726	18,871	662	794	15,064	18,077
2010	14,861	17,833	757	908	14,104	16,925
2011	15,658	18,790	798	958	14,860	17,832
2012	14,999	17,999	856	1,027	14,143	16,972
2013	14,347	17,216	1,035	1,242	13,312	15,974
2014	14,622	24,858	1,141	1,940	13,481	22,918
2015	14,604	35,050	1,109	2,662	13,495	32,208
2016[1]	14,530	34,872	1,110	2,664	13,420	32,208

[1]Estimate

Table II-20C: Total Combined Personnel Cost of Career Sea Pay and Career Sea Pay Premium, 1972–2016

Fiscal Year	Total Personnel Cost ($000)	Officers Cost ($000)	Enlisted Cost ($000)
1972	$34,297	---	$34,297
1973	34,564	---	34,564
1974	30,235	---	30,235
1975	29,932	---	29,932
1976	29,219	---	29,219
1977	27,442	---	27,442
1978	26,345	---	26,345

Fiscal Year	Total Personnel Cost ($000)	Officers Cost ($000)	Enlisted Cost ($000)
1979	17,962	---	17,962
1980	14,369	---	14,369
1981	136,895	$10,918	125,977
1982	199,788	18,381	181,407
1983	227,096	18,784	208,312
1984	245,479	19,479	226,000
1985	250,051	19,604	230,447
1986	257,018	20,772	236,246
1987	268,020	21,061	246,959
1988	285,659	21,498	264,161
1989	309,618	21,659	287,959
1990	307,906	21,245	286,661
1991	309,081	22,164	286,917
1992	291,867	20,380	271,487
1993	279,903	19,971	259,923
1994	259,204	18,729	240,475
1995	247,856	16,946	230,910
1996	274,673	18,916	255,757
1997	272,593	19,303	253,290
1998	267,325	18,161	249,164
1999	242,219	16,703	225,516
2000	232,746	16,475	216,271
2001	233,787	16,437	217,350
2002	252,412	20,004	232,408
2003	357,473	32,059	325,414
2004	338,438	29,575	308,863
2005	310,411	27,095	283,316
2006	300,421	26,626	273,795
2007	287,047	26,458	260,589
2008	273,760	24,787	248,973
2009	265,856	25,987	239,869
2010	263,752	26,203	237,549
2011	243,436	26,625	216,811
2012	255,164	25,476	229,688
2013	248,922	25,821	223,101
2014	272,923	28,271	244,652
2015	317,080	31,405	285,495
2016[1]	315,855	31,433	284,422

--- No data available.

[1]Estimate

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.D.3.e.
Special Continuation, Accession, and Annual Incentive Pays for Nuclear-Qualified Officers

Legislative Authority: 37 U.S.C. §§333(a)(1), 333(a)(2), 333(c), 333(b)(1), and 333(b)(2) for nuclear-trained and -qualified enlisted members.[1]

Purpose: To encourage voluntary accessions into the nuclear-power officer community and to provide an inducement for nuclear-trained and nuclear-qualified Navy officers to continue on active duty upon completion of obligated service.

Background: The Act of June 3, 1969, Pub. L. No. 91-20, §1(1), 83 Stat. 12, 13 (1969), authorized a special continuation pay of $15,000 for nuclear-qualified submarine officers with fewer than 10 years of commissioned service who agreed to remain in active submarine service for a period of four years after their initial service obligations. The House Armed Services Committee described the need for the special pay in these terms:

> The purpose of the bill is twofold:
>
> First, to arrest and reverse a rapidly increasing rate of resignation by qualified nuclear submarine officers, thereby retaining sufficient qualified officer personnel to meet present and future manning requirements of the nuclear submarine force; and
>
> Second, to maintain a sufficient officer force of qualified nuclear submarine officers to make possible a viable sea-shore rotation, including appropriate and meaningful utilization of the postgraduate education program.
>
> The purpose of the legislation would be effected by authorizing ... a substantial monetary bonus to certain nuclear-trained submarine officers who voluntarily extend their period of active service.[2]

Under the act, the continuation-pay program provided for payments to be made for an agreement to remain on active duty in nuclear-related operations for a four-year period.

The Act of June 3, 1969, Pub. L. No. 91-20, *id.*, had an expiration date of June 30, 1973. The Act of October 27, 1972, Pub. L. No. 92-581, §1, 86 Stat. 1277 (1972), broadened the continuation-pay authority to include nuclear-qualified surface officers as well as submarine officers and extended the expiration date to June 30, 1975.[3] Under the original law, continuation pay was payable on an installment basis—as a general rule, four yearly installments of $3,750 each, starting at the end of the officer's period of initial obligated service, or, alternatively, five yearly installments of $3,000 each, starting on the date, up to one year in advance of the end of an officer's period of initial obligated service, an extension agreement was accepted. Authority to make special continuation payments expired June 30, 1975, Congress not having extended the cutoff date.

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[1] Special pay for nuclear-trained and nuclear-qualified enlisted members, codified at 37 U.S.C. §312a, is covered in Chapter II.E.2.c. hereof, "Selective Reenlistment Bonus," below. See in particular footnotes 30 and 31 to Chapter II.E.2.c. together with accompanying text.

[2] H.R. Rep. No. 91-141 (Committee on Armed Services), at 1, accompanying H.R. 9328, 91st Cong., 1st sess. (1969). See S. Rep. No. 91-182 (Committee on Armed Services), at 2, accompanying H.R. 9328, 91st Cong., 1st sess. (1969).

[3] In commenting on the proposal to broaden and extend the authority for special continuation pay for nuclear-trained and -qualified officers, the Senate Committee on Armed Services characterized the special-pay program as already having been "highly successful." See S. Rep. No. 92-1307 (Committee on Armed Services), at 4, accompanying H.R. 16925, 92d Cong., 2d sess. (1972). Indeed, the special-pay program was deemed so "successful" that a similar special-pay program, codified at 37 U.S.C. §312a, was adopted for nuclear-trained and -qualified enlisted personnel. See, e.g., footnotes 30 and 31 to Chapter II.E.2.c., "Selective Reenlistment Bonus," below, together with accompanying text.

The Nuclear Career Incentive Act of 1975, Pub. L. No. 94-356, §2, 90 Stat. 901 (1976), reinstated authority for nuclear continuation pay effective August 1, 1976,[4] and raised the amount of such pay to $20,000—i.e., five installments of $4,000 or four installments of $5,000—with a new expiration date of September 30, 1981. In addition to extending the authority for continuation pay and increasing the rates payable, the Nuclear Career Incentive Act of 1975, Pub. L. No. 94-356, *id*., also created a "nuclear career annual incentive bonus" and a "nuclear career accession bonus."[5]

The annual incentive bonus established under the Nuclear Career Incentive Act of 1975, Pub. L. No. 94-356, *id*., §3, 90 Stat. 901–3, and codified at 37 U.S.C. §312c, provided a special pay for nuclear-trained and nuclear-qualified officers on active duty at the end of each "nuclear service year"—starting October 1, 1975—at an annual rate of $4,000 for officers who had completed training while in officer status and $2,400 for officers who were nuclear-trained as enlisted members. Under the act, continuation pay was authorized for a nuclear officer who had finished the initial service obligation, who had fewer than 10 years of commissioned service, and who agreed to extend the active-duty obligation for four years; a qualified electing officer could receive continuation pay of $5,000 for each of the four years. The "incentive bonus," on the other hand, was intended as an alternative option to continuation pay: if an affected officer chose not to commit for four years, thus not becoming eligible for continuation pay of $5,000 per year, the officer could nevertheless remain on active duty without any specific commitment and earn the annual incentive bonus of $4,000 for each nuclear service year completed. As a follow-on incentive, between the tenth and eighteenth year of commissioned service, a nuclear officer became eligible for the $4,000 annual incentive bonus even when not assigned to nuclear duty—except when away from such an assignment for three or more consecutive years. Between the eighteenth and twenty-sixth year of commissioned service, on the other hand, such an officer remained eligible for the annual incentive bonus, but only when actually assigned to a nuclear billet. All entitlement to the annual incentive bonus stopped at the twenty-sixth year of commissioned service. Regardless of any other factor, no bonus entitlement existed for an officer receiving aviation career incentive pay or for an officer in pay grade O-7 or higher. The incentive bonus was authorized through the nuclear service year ending September 30, 1981.

The "nuclear career accession bonus" established under the Nuclear Career Incentive Act of 1975, Pub. L. No. 94-356, *id*., §3, 90 Stat. 901, and codified at 37 U.S.C. §312b, on the other hand, was set up as a single payment, not to exceed $3,000, payable to an officer with fewer than five years of commissioned service upon successful completion of nuclear training. The primary purpose of the bonus was to induce newly commissioned officers to volunteer for nuclear training and duty.[6] The Navy indicated during hearings on the authorizing bill that the accession bonus would not be used at least through fiscal year 1977, pending an evaluation of the effectiveness of the other programs—the annual incentive bonus and the increased rates of continuation pay—adopted to deal with retention and accession.[7] Under the act, the accession bonus was authorized for officers accepted for nuclear training before October 1, 1981.

The Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §2, 95 Stat. 3359, 3359–3360 (1980), generally increased the various rates of pay for nuclear-qualified officers and extended the termination dates in recognition of the "serious difficulties" encountered by the Navy "in attracting and retaining nuclear officers."[8] In particular, the maximum amount of special continuation pay was increased

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[4] Because of the earlier expiration, there was a hiatus in continuation-pay authority from July 1, 1975, to August 1, 1976. See Nuclear Career Incentive Act of 1975, Pub. L. No. 94-356, §5, 90 Stat. 901, 904 (1976).

[5] See S. Rep. No. 94-1008 (Committee on Armed Services), at 1–3, 94th Cong., 2d sess. (1976), generally.

[6] See, e.g., S. Rep. No. 94-1008 (Committee on Armed Services), at 2–3, 94th Cong., 2d sess. (1976).

[7] As the Senate Committee on Armed Services noted:

> . . . The Committee emphasizes that this new authority should be used by the Navy only if demonstrably needed and then only to the extent and at the minimum financial level necessary to meet accession requirements.

S. Rep. No. 94-1008 (Committee on Armed Services), at 2, 94th Cong., 2d sess. (1976).

[8] S. Rep. No. 96-105 (Committee on Armed Services), at 5, accompanying H.R. 7626, 96th Cong., 2d sess.

from $5,000 for each year of an active-duty continuation agreement to $7,000, or $28,000 *in toto* for the single four-year agreement contemplated under the continuation-pay program, to be paid either in four installments of $7,000 each or, in the case of an active-duty agreement entered one year in advance of the expiration of the initial term of obligated service, in five installments of $5,600 each. In addition, authority to accept active-duty continuation agreements was extended from September 30, 1981, to September 30, 1987. Similarly, the maximum amount of annual nuclear career incentive bonus was increased from $4,000 to $6,000 (from $2,400 to $3,500 for officers nuclear-trained while enlisted), and authority to make such payments was extended to "nuclear service years" ending before October 1, 1987. Finally, new provisions were adopted under which a nuclear career accession bonus of $3,000 could be paid to an officer who had applied and been accepted for submarine nuclear-power training. Under the preexisting law, such bonuses could be paid only after successful completion of training; under the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., bonuses could be paid both upon acceptance for, and completion of, training. In addition, authority to make such bonus payments was extended to personnel accepted for training on or before September 30, 1987. The effective date of the various amendments was January 1, 1981.

The Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §119, 95 Stat. 989, 997 (1981), extended the nuclear career accession bonus to personnel applying for surface nuclear-power training so that, in addition to being entitled to a bonus upon completion of training, they, like their submarine counterparts, became entitled to an accession bonus upon acceptance for training. As explained by Senator Tower of Texas, who offered the extension as a Senate floor amendment, the payment of an acceptance bonus for submarine nuclear-power training, as had been authorized by the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., had had the effect of shifting personnel from surface nuclear training to submarine nuclear training, and it was necessary to redress the balance.[9] In addition, the Uniformed Services Pay Act of 1981, Pub. L .No. 97-60, *id*., permitted nuclear-qualified officers who had, before January 1, 1981, entered a continuation agreement for a $20,000 bonus to cancel that agreement in exchange for a new agreement, covering the four-year period commencing on such date, at the $28,000 rate that had become effective January 1, 1981.

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §632, 99 Stat. 583, 643–46 (1985), effected further changes to the special-pay program applicable to nuclear-qualified officers. First, the 1986 authorization act generally increased the various rates of special pay for such officers. The maximum amount of special continuation pay was increased from $7,000 to $12,000 for each year of an active-duty continuation agreement; the maximum annual nuclear career incentive bonus was increased from $6,000 to $10,000 for officers who completed nuclear training while they were officers and from $3,500 to $4,500 for officers who had been nuclear-trained while enlisted. The nuclear career accession bonus was increased from $3,000 to a maximum of $8,000.[10] Second, the act removed the proviso that limited nuclear-qualified officers to one four-year period for which special continuation pay was authorized: under the amendment to the program effected by the act, nuclear qualified officers may receive multiple continuation bonus payments. In the same vein, the act removed the proviso that limited continuation bonus payments to nuclear-qualified officers who had completed fewer than 10 years of commissioned service: under the pay program as amended by the act, nuclear-qualified officers are entitled to such pay, upon execution and acceptance of qualifying continuation agreements, through 26 years of commissioned service.

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[9] 127 Cong. Rec. 20169–20170 (1981) (127 Cong. Rec. S9391-S9392 (daily ed. September 10, 1981)) (statement of Senator Tower).

[10] In presentations to the House Armed Services Committee, the Navy indicated that it "intend[ed] to use no more than $9,000 per year" per officer of the continuation-pay authority; that it "does not intend at the present time to implement more than $7,200" per year per officer of the annual incentive-bonus authority (not more than $3,600 per year per officer for officers who received nuclear training while enlisted); and that it "does not intend to implement more than the current $6,000 ceiling" of the accession-bonus authority (although it did indicate it expected to pay more of the amount at the time of entry into the program and less upon completion of training). See H.R. Rep. No. 99-81 (Committee on Armed Services), at 230–31, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

The act also permitted nuclear-qualified officers to choose periods of three, four, or five years of extended service commitment instead of the single four- year period specified under the preceding program.[11] Finally, the act extended the period for which the special continuation, annual incentive, and accession pays were authorized from October 1, 1987, to October 1, 1990.[12]

As explained by the House Armed Services Committee, the summarized enhancements to the nuclear officer special pays were recommended "to eliminate the inventory shortage of experienced nuclear qualified officers."[13] In support of this overall conclusion, the committee went on to note:

> A severe shortage of experienced (pay grades O-4 to O-6) nuclear trained officers persists. Officers in these pay grades are required for department head, executive officer, commanding officer, and key post command billets. By the end of fiscal year 1984, this shortage was 19 percent and is projected to grow to 22 percent by 1987 unless corrective action is taken. The shortage is having significant impact on the career opportunities of the nuclear qualified officer force. For example, over 33 percent of submarine officers completing a 36-month sea tour as submarine department heads immediately serve a follow-on 36-month sea tour as submarine executive officers. Over 60 percent of submarine officers completing the 36 month executive officer tour immediately serve a follow-on 42 month submarine commanding officer tour. Such back-to-back sea tours, required to man key sea billets, deny officers who remain in the Navy the opportunity for professional development short tours and influence additional officers to leave the Navy.[14]

In short, the benefits available under the continuation, annual incentive, and accession pays for nuclear officers were liberalized to further increase incentives for affected officers to remain in the Navy in nuclear-officer billets.

The National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §614, 103 Stat. 1352, 1446 (1989), further extended the termination dates for special continuation, annual incentive, and accession pay, this time to September 30, 1995. The extensions were effected with almost no discussion of the overall aims of the programs or the specific conditions and needs underlying the extensions.[15] The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §613(e),

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[11] The act also incorporated a provision similar to that of the preceding continuation-pay program whereby the Secretary of the Navy—as the officer designated to administer the program—could accept an extension agreement as much as one year before the end of an affected officer's existing period of obligated service. As was true of the preceding program, the special continuation bonus was to be paid in equal annual installments over the period covered by the extension agreement. (In the case of officers who tendered extension agreements before the end of their existing period of obligated service, a special provision dealt with the number of installments to be paid.) See 37 U.S.C. §312(a), as amended by Section 632(a)(1)(D)(iii) of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §632(a)(1)(D)(iii), 99 Stat. 583, 644 (1985).

[12] The amendments to the nuclear-trained and -qualified officer special-pay programs became effective October 1, 1985. Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §632(d), 99 Stat. 583, 646 (1985). See 37 U.S.C. §§312 note, 312b note, and 312c note.

[13] H.R. Rep. No. 99-81 (Committee on Armed Services), at 230, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[14] H.R. Rep. No. 99-81 (Committee on Armed Services), at 230, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[15] See, e.g., H.R. Rep. No. 101-121 (Committee on Armed Services), at 276, and H.R. Rep. No. 101-331 (Committee of Conference), at 586, both accompanying H.R. 2461, 101st Cong., 1st sess. (1989). For example, the complete text of the House Armed Services Committee report dealing with the proposed extension reads as follows:

> Current law authorizes until September 30, 1990, the payment of (1) special pay to certain nuclear qualified officers who agree to remain on active duty for a specified period of time; (2) a nuclear career accession bonus for individuals that [sic] agree to serve as officers in connection with the supervision, operation and maintenance of naval nuclear power plants; and (3) a nuclear career annual incentive bonus for personnel serving in select grades and specialties. [The House proposal] would extend these authorities until September 30, 1995.

(f), and (g), 110 Stat. 186, 360 (1996), again extended the termination dates for special continuation, accession, and annual incentive pay, respectively, to September 30, 1997.[16] One-year extensions were prescribed in the respective national defense authorization acts for fiscal years 1997 through 2004; the only exception, the act for fiscal year 1999, Pub. L. No. 105-261, 112 Stat. 2035 (1998), provided for a three-month extension from October 1, 1999, to January 1, 2000, in the process of adjusting funding end-points from a fiscal-year to the calendar-year cycle. As the program was extended from year to year, two increases occurred in all special pays for nuclear-qualified officers. The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1770 (1997), increased the nuclear career accession bonus from $8,000 to $10,000 and the continuation bonus from $12,000 to $15,000. At that time, the career annual incentive bonuses were increased from $4,500 to $5,500 for nuclear-qualified officers who trained as enlisted members and from $10,000 to $12,000 for those who trained as officers. The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 644 (1999), made more significant increases in all the special pays for nuclear-qualified officers. Following the authorization bill for 2000, the nuclear career accession bonus increased from $10,000 to $20,000 and nuclear officer continuation pay increased from $15,000 to $25,000. The nuclear career annual incentive bonuses increased from $5,500 to $10,000 for officers who trained as enlisted members and from $12,000 to $22,000 for officers who trained while in officer status. Congress engaged in no significant discussion of the rationale for the increases in the 1998 or the 2000 legislation.

Under the National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3142 (2006), the legislative limits for nuclear officer continuation pay increased from $25,000 to $30,000. In addition, the legislative limits for the annual bonus for naval officers not above the grade of O-6, who received training as an enlisted member and then achieved the technical qualifications for duty related to naval nuclear-propulsion plants, increased from $10,000 to $14,000. Under the National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, 120 Stat. 2083 (2006), the legislative limits for the nuclear career accession bonus increased from $20,000 to $30,000.

Under the National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 149 (2008), nuclear officer continuation pay was extended to nuclear-qualified officers through 30 years of commissioned service rather than the previous upper limit of 26 years. Additionally, the National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, 122 Stat. 4485 (2008), changed the length of the agreement from "three, four, or five years" to a period of not less than three years.

H.R. Rep. No. 101-121, *id*., at 276. The Conference Report merely summarized the proposals in the House and Senate bills. See H.R. Rep. No. 101-331, *id*., at 586. Although the Conference Report, cited above, indicated that the Senate bill, S. 1352, 101st Cong., 1st sess. (1989), had proposed extending special continuation, annual incentive, and accession pay to September 30, 1992, the Senate report on S. 1352 made no mention of the proposed extensions. See S. Rep. No. 101-81 (Committee on Armed Services), accompanying S. 1352, 101st Cong., 1st sess. (1989); see especially S. Rep. No. 101-81, at 176–82.

[16] The House of Representatives proposed a two-year extension of these termination dates to September 30, 1998; see H.R. Rep. No. 104-131 (Committee on National Security), at 231, accompanying H.R. 1530, 104th Cong., 1st sess. (1995). But the Senate proposed only a one-year extension to September 30, 1997, expressing a concern that the Navy may not have given careful enough consideration to the effect of downsizing the nation's nuclear submarine force on the need for the nuclear-qualified-officer special pays; see S. Rep. No. 104-112 (Committee on Armed Services), at 255, accompanying S. 1026, 104th Cong., 1st sess. (1995). The one-year extension recommended by the Senate was approved in conference. H.R. Rep. No. 104-406 (Committee of Conference), at 815–16, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 805–6, accompanying S. 1124, 104th Cong., 2d sess. (1996).

The provisions governing continuation pay for nuclear-qualified officers are codified at 37 U.S.C. §312; those governing the career accession bonus, at 37 U.S.C. §312b; and those governing the annual incentive bonus, at 37 U.S.C. §312c.[17] [18]

In 2008 Congress changed 37 U.S.C. Chapter 5 to include Subsection II. Subsection II added articles §331 to §355. Prior to 2008, there were over 60 S&I pays authorized in law. For many of these pays, detailed eligibility requirements and precise payment amounts were set in law and could only be changed by congressional action. When needs or conditions changed, force managers sometimes could not adjust S&I pay eligibility criteria or payment levels fast enough in response to those changing circumstances.[19] In 2008 Congress provided for a ten-year phased-in consolidation of S&I pays to eight broad categories allowing more flexibility and opportunity to adjust payment levels and eligibility criteria. The Chief of Naval Personnel transitioned the legal authority for all nuclear officer incentive pays to 37 U.S.C. §333 when OPNAVINST 7220.11D went into effect on July 3, 2012.

Under the National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Stat. 839 (2015), the legislative limits for nuclear officer continuation pay increased from $35,000 to $50,000. The authority to pay the special pay for nuclear-qualified officers, the nuclear career accession bonus, and the nuclear career annual incentive bonus has been extended in one-year increments through December 31, 2016.[20]

Current legislative limits on rates of pay: The rates of special pay for nuclear-qualified officers are as follows:

[17] Special pay for nuclear-trained- and -qualified enlisted personnel, codified at 37 U.S.C. §312a, is covered in Chapter II.E.2.c., below, which deals with selective reenlistment bonuses. See in particular footnotes 30 and 31 to Chapter II.E.2.c., "Selective Reenlistment Bonus," below, together with accompanying text. Under the provisions of 37 U.S.C. §312a(e), authority for special pay for nuclear-trained and -qualified enlisted personnel expired on June 30, 1975.

[18] For regulations governing the payment of special pays and bonuses for nuclear-qualified officers, see *Department of Defense Financial Management Regulation*, *Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, §§11201–11234.

[19] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle F, Sec. 661, 122 Stat. 3, 163 (2008).

[20] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 613, 129 Stat. 726, 838, 839 (2015)

Type of Pay	Amount
Nuclear career accession bonus	May not exceed $50,000 per year[21]
Nuclear officer continuation pay	May not exceed $50,000 per year[22]
Nuclear career annual incentive bonus, as officer	May not exceed $25,000 per year[23]

Cost: For the cost of pays for nuclear-qualified officers from 1972 to 2016, see table II-21 below.

Table II-21. Special Pays for Nuclear-Qualified Officers, 1972–2016

Fiscal Year	Total Officers	Cost ($000)
1972	621	$2,216
1973	720	2,558
1974	422	1,409
1975	403	1,338
1976	363	1,214
1977	224	740
1978	1,860	5,762
1979	1,947	6,713
1980	2,185	7,220
1981	2,351	10,530
1982	2,373	12,155
1983	2,619	13,126
1984	2,815	14,487
1985	2,830	14,495
1986	3,164	19,870
1987	3,256	22,081
1988	3,697	26,400
1989	3,858	29,518
1990	3,938	29,314
1991	3,767	27,710
1992	3,821	27,900
1993	4,112	27,200
1994	3,734	24,391
1995	3,513	23,690
1996	3,477	23,070
1997	3,488	28,148
1998	3,397	28,044
1999	3,400	32,925
2000	3,084	30,168

[21] For rates of pay under the nuclear career accession bonus authority of 37 U.S.C. §333a currently authorized by regulation, see *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, §§11201–11204 and 11231–11234.

[22] For rates of pay under the nuclear officer continuation pay authority of 37 U.S.C. §333a currently authorized by regulation, see *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, §§11211–11215.

[23] For rates of pay under the nuclear career annual incentive bonus authority of 37 U.S.C. §333b currently authorized by regulation, see *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, §§11221–11224.

Fiscal Year	Total Officers	Cost ($000)
2001	3,105	39,108
2002	2,968	40,228
2003	3,143	45,906
2004	3,588	51,771
2005	3,450	52,902
2006	2,549	57,968
2007	2,344	53,306
2008	2,132	53,300
2009	2,321	69,630
2010	2,321	69,600
2011	2,272	68,160
2012	2,384	65,230
2013	2,403	61,466
2014	2,240	66,208
2015	2,118	63,842
2016[–1]	2,464	73,920

[–1] Preliminary data.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.D.4.a.
Experimental Stress Duty Pays

Legislative Authority: 37 U.S.C. §301(a)(5), (6), and (7), and (c)(1).

Purpose: To provide additional pay to increase the ability of the uniformed services to induce personnel to enter into and remain in duties involving an unusually high level of physiological or other stress.

Background: The Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(4), 69 Stat. 18, 19–20 (1955), added duty "as a low-pressure chamber inside observer" and duty "as a human acceleration or deceleration experimental subject" to the categories of duty for which hazardous duty incentive pay was authorized. The Act of August 28, 1957, Pub. L. No. 85-208, 71 Stat. 484 (1957), added a further duty category to the list for which such pay was authorized—namely, duty "as a human test subject in thermal stress experiments."[1] The Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §7, 77 Stat. 210, 215 (1963), amended the provision for pressure-chamber incentive pay by expanding eligibility to include "duty inside a high- or low-pressure chamber." The three categories of duty set out above are collectively known as experimental stress duties.

Hazardous duty incentive pay rates for experimental stress duties were initially fixed at $110 per month for officers and $55 per month for enlisted personnel and remained at those levels until 1981, when the enlisted pay was increased.[2] The officer–enlisted rate differential in the pays was a product of the hazardous duty incentive pay structure adopted in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), which was in turn based on recommendations of the Advisory Commission on Service Pay, frequently referred to as the Hook Commission. The Hook Commission's rationale for an officer–enlisted differential was that:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.
>
> (2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.

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[1] The hazardous duty incentive pay provisions adopted in the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(4), 69 Stat. 18, 19–20 (1955), and the Act of August 28, 1957, Pub. L. No. 85-208, 71 Stat. 484 (1947), including the experimental stress duty pays here in issue, were in the main classified to 37 U.S.C. §235. See 37 U.S.C. §235(a) and (c) (1958). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the hazardous duty pay provisions, including the experimental stress duty pays, were codified at 37 U.S.C. §301.

[2] Under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), officers received $100 per month and enlisted personnel received $50 per month for the hazardous duty incentive pays—other than flight and submarine duty pay—ultimately codified at 37 U.S.C. §301. Hazardous duty incentive pay rates were increased by 10 percent for both officers and enlisted personnel by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(6), 69 Stat. 18, 21 (1955)—to $110 for officers and to $55 for enlisted personnel. Thus, when members of the uniformed services first became entitled to hazardous duty incentive pay for experimental stress duty under amendments to 37 U.S.C. §301 made by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(4), 69 Stat. 18, 19–20 (1955), the rates of pay were $110 a month for officers and $55 a month for enlisted personnel.

> (3) Officers are usually given greater responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.[3] [4]

Effective October 1, 1981, rates of incentive pay for enlisted personnel involved in experimental stress duty were increased 50 percent to $83 per month by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(c), 95 Stat. 989, 993 (1981). As explained in the Senate report, these increases were made in recognition of the fact that hazardous duty incentive pay rates had "not been adjusted in more than 20 years, and this increase is needed to enhance the incentive value of this pay."[5]

Experimental stress duty pay rates for enlisted personnel were further increased to $110 per month in 1985 by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 99 Stat. 583, 648 (1985). This increase was effected by an amendment to 37 U.S.C. §301(c)(1) that did away with any distinction between officers and enlisted personnel for the vast majority of duties qualifying for hazardous duty incentive pay, specifically including the various experimental stress duties. Prior to amendment by the 1986 Authorization Act, 37 U.S.C. §301(c)(1) read as follows:

> For the performance of the hazardous duty described in [various clauses of subsection (a) of 37 U.S.C. §301, including all the experimental stress duties], an officer is entitled to $110 a month and an enlisted member is entitled to $83 a month.

After amendment by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., 37 U.S.C. §301(c)(1) read~~s~~ as follows:

> For the performance of hazardous duty described in [the same clauses set out above, including experimental stress duties], a member is entitled to $110 a month.[6]

Thus, under current 37 U.S.C. §301, all members, both officers and enlisted personnel,[7] are entitled to $110 per month for the performance of experimental stress duties under qualifying orders.

The legislative history of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., does not per se indicate the reason for doing away with the distinction between officers and enlisted personnel with respect to the rates of pay authorized for experimental stress duties, primarily because no report was ever submitted on the Senate bill, S. 1160, 99th Cong., 1st sess. (1985), in which the proposal to equalize the rates of experimental stress duty pay for officers and enlisted personnel was made.[8] In fact,

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[3] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[4] For a short discussion of the treatment accorded hazardous duty incentive pays under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), see H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, and S. Rep. No. 81-733 (Committee on Armed Services), at 18, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[5] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[6] The increase in hazardous duty incentive pay rates for enlisted personnel engaged in experimental stress duties became effective October 1, 1985. See Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a), 99 Stat. 583, 648 (1985).

[7] The term "member" is defined in 37 U.S.C. §101(23) to mean "a person appointed or enlisted in, or conscripted into, a uniformed service." As such, "member" includes both officers and enlisted personnel.

[8] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

> ... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.

however, the proposal to equalize officer and enlisted rates of pay for various hazardous duties, including experimental stress duties, had been made the preceding year in connection with the consideration of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984). At that time, the Senate Committee on Armed Services, reporting out S. 2723, 98th Cong., 2d sess. (1984), had included a provision that would, among other things, have equalized officer and enlisted rates of hazardous duty incentive pay for experimental stress duties.[9] In support of its recommendation, the committee stated:

> The committee proposes that the enlisted and officer rates for several hazardous duty incentive pays be equalized....
>
> The *Fifth Quadrennial Review of Military Compensation* (QRMC) examined special and incentive pays in great detail. One of its conclusions was that the differential between enlisted and officer rates for seven hazardous duty incentive pays [including the experimental stress duty pays] should be eliminated....
>
> The committee agrees that enlisted and officer personnel should be paid the same incentive for exposing themselves to similar hazards. Therefore, it recommends that the rates for these seven hazardous duty pays be changed to entitle both enlisted and officer personnel to $110 per month.[10]

The Senate proposal was eliminated in conference.[11]

As indicated immediately above, the experimental stress duty pay "enhancements" adopted as part of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id.*, closely parallel recommendations advanced by the Fifth Quadrennial Review of Military Compensation in 1984.[12] In

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When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....

Most of Senate Report 99-41 continues to be applicable to this bill.

131 Cong Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....

... In addition, the Committee recommended increases or enhancements to a number of special and incentive pays....

The special and incentive pays ... involved in these recommendations include:

g. Hazardous duty pays.

Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither S. Rep. No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the hazardous duty incentive pay program in general, or to the experimental stress duty pay program in particular, that were contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

[9] See Section 148 of S. 2723, 98th Cong., 2d sess. (1984).

[10] S. Rep. No. 98-500 (Committee on Armed Services), at 210 (discussing Section 148 of the Senate bill), accompanying S. 2723, 98th Cong., 2d sess. (1984).

[11] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[12] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together

support of its recommendation to "increase the enlisted rate to $110 per month, eliminating the officer–enlisted pay differential,"[13] the Fifth Quadrennial Review concluded:

> Current rates of payment [for experimental stress duties] are generally adequate to recognize the hazards [implicit in such duties] and to provide a degree of incentive.
>
> 1. Officer and enlisted personnel should receive equal compensation for exposure to experimental-type duties.
>
> 2. An appropriate rate for both officer and enlisted personnel receiving Experimental Stress Duty Pay is $110 per month.[14]

In reaching this conclusion, the Fifth Quadrennial Review also noted:

> There is a need to provide special compensation to personnel performing duties involving acceleration/deceleration testing, thermal stress experiments, and high or low pressure chamber duty.
>
> 1. The Services are obtaining sufficient volunteers for acceleration/ deceleration and thermal stress duties, both of which are limited in duration.
>
> 2. Low attraction to pressure chamber duties contributes to undermining in the Navy.
>
> 3. Retention rates of pressure chamber personnel in the Air Force and Navy for both officers and enlisted personnel are below desired levels.[15]

In further comment on officer–enlisted differentials for various hazardous duty incentive pays, including experimental stress duties, the Fifth Quadrennial Review stated:

> During the process of reviewing the various Hazardous Duty Incentive Pays, it became increasingly clear that, although there is some incentive associated with certain pays, the primary purpose is recognition for the hazards or risks involved. It was, therefore, believed that officer/enlisted personnel should receive the same level of payment for seven of the Hazardous Duty Incentive Pays: [including] ... experimental stress [duty pays]....[16]

In arriving at this conclusion, the Fifth Quadrennial Review implicitly rejected the conclusions reached by the Hook Commission in 1948.[17] In commenting on various arguments that had been advanced in favor of and against continuation of officer–enlisted differentials for hazardous duty incentive pays in

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with any recommendations ...proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001.

[13] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 101. Also see *id*., 4, and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-4.

[14] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 100–101. Also see *id*., 4, and *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-4.

[15] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pay*s, November 1983, 100. Also see *id*., 4. *Cf. Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-4.

[16] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 100. Also see *id*., 4; *cf. Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-4.

[17] See discussion of Hook Commission recommendations concerning officer–enlisted differentials at text accompanying footnotes 3 and 4 to this chapter, above.

general, the Fifth Quadrennial Review summarized the argument against the Hook Commission's position in the following terms:

> The Hook Commission rationale was based primarily on an examination of the needs of the aviation and submarine communities. Times have changed and those communities now have their own separate career incentive pays and bonuses.[18]

Other arguments in favor of eliminating the differential were summarized as follows:

* All personnel, officer and enlisted, experience the same hazards.

* One can never really compensate for loss of life, no matter the level.

* Basic pay and bonuses are adequate to cover the differential.

* Most hazard-related pays now cover skills that are not necessarily career oriented (across all Services); hence, a differential is not necessary for purposes of retention. However, exceptions may occur and should be individually addressed, as required.

* [F]ield interviews [conducted by the Fifth Quadrennial Review of Military Compensation] with both officer and enlisted personnel indicate "same rate for same risk" is perceived as equitable in the hazardous duty areas.[19]

Whether for these or some other reasons, Congress did in fact eliminate officer–enlisted pay differentials for experimental stress duties in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*. Based on that legislation, both enlisted and officer members received $110 per month for experimental stress duty pay. The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1786 (1997), raised the monthly rate for experimental stress duty pay and a number of other hazardous duty pays to $150.

> As administered, a member is entitled to experimental stress duty pay for any month during which he performs under competent orders (1) duty as a human acceleration or deceleration experimental subject utilizing experimental acceleration or deceleration devices; (2) duty as a human thermal experimental subject in a thermal stress experiment; or (3) duty within a high-pressure (hyperbaric) or low-pressure (altitude) chamber at physiological facilities as a human test subject, research technician, or inside instructor-observer. [See *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶20341.]

Reserve forces personnel[20] entitled to compensation for inactive-duty training are technically entitled to experimental stress duty pays, when they perform qualifying duties under competent orders,

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[18] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 920; *cf. id*., 37.

[19] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 919–20.

[20] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

provided Congress has appropriated sufficient funds for that purpose.[21] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying experimental stress duties while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[22] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying experimental stress duties under 37 U.S.C. §301(f), also entitled to 1/30th of the experimental stress duty pay that would be payable to a member of the active-duty force who was performing such duty. Under regulations prescribed by the President, a member of a reserve force who performs experimental stress duties under 37 U.S.C. §301(f) while engaged in inactive-duty training is entitled, at least technically, to experimental stress duty pay.[23]

Legislative authority to make experimental stress duty payments to reserve forces personnel engaged in inactive-duty training can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive duty reserve forces personnel engaged in hazardous duties of one kind or another.[24] In fact, however, experimental stress duties were not covered by the Army Air Corps Act. Rather, that Act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50 percent increase in the "armory drill pay" to which they would otherwise have been entitled.[25] Technically, the first special provision for experimental stress duty pay for reserve forces personnel engaged in inactive-duty training came in the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(4), 69 Stat. 18, 19–21 (1955), which, as above noted, covered duty "as a low-pressure chamber inside observer" and duty "as a human acceleration or deceleration experimental subject." The Act of August 28, 1957, Pub. L. No. 85-208, 71 Stat. 484 (1957), added duty "as a human test subject in thermal stress experiments" to the category of duties for which experimental stress duty pays were technically authorized for reserve forces personnel performing inactive-duty training.

As a practical matter, the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, *id*., and the Act of August 28, 1957, Pub. L. No. 85-208, *id*., had been intended to extend experimental stress duty pay entitlements to active-duty personnel performing qualifying duties. The entitlements technically covered reserve forces personnel also because of the way Title 37 of the United States Code was organized. At the

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[21] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[22] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[23] See *Department of Defense Financial Management Regulation Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶80316.

[24] For a more complete discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training generally, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)."

[25] Subsequent enactments extended both the categories of duties for which, and the categories of personnel to whom, hazardous duty incentive pay was available for inactive-duty training. See Chapter II.D.1.b.(1) hereof, "Flight Duty (Crew Member)," above, for a more complete discussion of the history of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training.

time, 37 U.S.C. §301(d) provided that reserve forces personnel on inactive-duty training were entitled to additional pay for hazardous duty "when required by competent orders to perform any hazardous duty prescribed by or pursuant to section 235 [of Title 37]." Section 235, in turn, covered hazardous duty incentive pay entitlements of active-duty personnel, and it was to that section that the experimental stress duties were added. The Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, *id*., and the Act of August 28, 1957, Pub. L. No. 85-208, *id*., had simply added three new categories of duty for which hazardous duty incentive pay was authorized for active-duty personnel, but the pay was technically available to reserve forces personnel as well under then 37 U.S.C. §301(d).[26] Thus, reserve forces personnel on inactive-duty training had in effect "piggybacked" on active-duty personnel insofar as technical entitlement to experimental stress duty pays was concerned. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions relating to hazardous duty incentive pay entitlements of reserve forces personnel, which had formerly been classified to 37 U.S.C. §301(d), were codified at 37 U.S.C. §301(f), whereas the hazardous duty incentive pay provisions relating to active-duty personnel, which had been formerly classified to 37 U.S.C. §235, were codified at 37 U.S.C. §301(a)–(e). In essence, the same entitlement rules were carried over into the newly codified Title 37, and reserve forces personnel performing inactive-duty training became entitled to hazardous duty incentive pay for performing any of the duties set out in 37 U.S.C. §301(a), including experimental stress duties. The current structure of hazardous duty pay entitlements for reserve forces personnel performing inactive-duty training thus derives from the organization imposed on Title 37 by the Act of September 7, 1962.

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §647, 99 Stat. 583, 655 (1985), amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hour resources.
>
> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP for flying be permitted to credit active-duty or inactive-duty training flight time to fulfill active- or inactive-duty flight time requirements.[27]

While the concern that led to the amendment in issue was the appropriate use and apportionment of flying time, the amendment to 37 U.S.C. §301(f) was stated in broader terms, so that it applies to any of the hazardous duties set out in 37 U.S.C. §301(a), including experimental stress duties, and not just flight duty. Thus, for any month in which a member of a reserve force is involved both in active duty and inactive-duty training for which he is entitled to hazardous duty incentive pay under 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on his combined entitlement for both active duty and inactive-duty training.

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[26] See 37 U.S.C. §301(d) (1952).

[27] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).

So far as can be determined, no reserve forces personnel on inactive training have ever received experimental stress duty pay. As a practical matter, it would appear that reserve forces personnel simply are not assigned to qualifying duty while performing inactive-duty training.

Until 2003, the conditions of entitlement to experimental stress pay for both active duty and reserve forces personnel were set out in Sections 109(c), (d), and (e) of Executive Order 11157, as amended and in various supplementary regulations adopted by the service Secretaries pursuant to Section 113 of Executive Order 11157; and in the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶¶20341–20343 (active-duty forces) and ¶80316 (reserve forces personnel engaged in inactive-duty training). Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301, relevant to hazardous duty incentive pay, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments.

Current rates of pay: The current rate of pay authorized for persons participating in the three types of experimental stress duties outlined above is $150 per month.

Cost: For the cost of experimental stress duty pays from 1972 to 1986, see table II-22, below.

Table II-22. Experimental Stress Duty Pays, 1972–1986

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	969	$748	162	$214	807	$534
1973	922	727	177	234	745	493
1974	943	760	217	280	726	480
1975	1,088	863	219	289	869	574
1976	1,125	894	229	302	896	592
1977	948	780	234	309	714	471
1978	931	771	237	313	694	458
1979	895	746	235	310	660	436
1980	894	749	241	318	653	431
1981	939	784	251	331	688	453
1982	965	1,065	322	425	643	640
1983	969	1,068	316	418	653	650
1984	981	1,075	304	401	677	674
1985	1,013	1,106	299	395	714	711
1986	1,048	1,385	314	415	734	970
Discontinued						

Chapter II.D.4.b.
Personal Exposure Pay
(Toxic Pesticides and Dangerous Organisms)

Legal Authority: 37 U.S.C. §301(a)(9) and (c)(1).

Purpose: To provide an additional incentive for uniformed services personnel to engage in various activities in which they may be exposed to toxic pesticides or to live dangerous viruses and bacteria, and to compensate such personnel for the more than normally dangerous character of such duty.

Background: The Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–93 (1981), authorized the payment of hazardous duty incentive pay to uniformed services personnel assigned to duty "involving frequent and regular exposure to highly toxic pesticides or involving laboratory work that utilizes live dangerous viruses or bacteria." As explained in the relevant congressional reports, military personnel exposed to "highly toxic pesticides" and "laboratory workers exposed to live hazardous viruses and bacteria" were added to the "categories of personnel whose duties have been determined to be hazardous" for the purposes of 37 U.S.C. §301 in recognition of the "extensive personal sacrifices made by military members whose daily duties place them in imminent danger from hazards such as toxic, lethal, or carcinogenic substances or whose routine duties involve hazardous working conditions."[1]

When duties involving personal exposure to toxic pesticides and dangerous viruses and bacteria were initially added to the "categories of personnel whose duties [were] determined to be hazardous" for the purpose of 37 U.S.C. §301, the rates of pay for the hazardous duties covered by that provision were $110 per month for officers and $83 per month for enlisted personnel, and these rates applied, *pari passu*, to personnel entitled to hazardous duty incentive pay on account of exposure to toxic pesticides and dangerous viruses and bacteria. The officer–enlisted rate differential was a product of the hazardous duty incentive pay structure adopted in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949),[2] which had in turn been based on the recommendations of the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission. The Hook Commission's rationale for an officer–enlisted pay differential was that:

> A higher rate of hazard pay for officers as compared with enlisted personnel is justifiable on several grounds:
>
> (1) Any special pay must be in proportion to the basic pay, so that at all times the compensation for the primary responsibility will be considerably greater than that for any additional duty.

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[1] S. Rep. No. 97-146 (Committee on Armed Services), at 7–8, accompanying S. 1181, 97th Cong., 1st sess. (1981). See H.R. Rep. No. 97-265 (Committee of Conference), at 22, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[2] Under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), officers received $100 per month and enlisted personnel received $50 per month for the hazardous duty incentive pays—other than flight and submarine duty pay—ultimately codified at 37 U.S.C. §301. Hazardous duty incentive pay rates were increased by 10 percent for both officers and enlisted personnel by the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, 69 Stat. 18 (1955)—to $110 for officers and to $55 for enlisted personnel. Enlisted personnel received a further increase to $83 per month—a 50 percent raise—by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(c), 95 Stat. 989, 993 (1981), the same act that extended hazardous duty incentive pay entitlements to personnel exposed to toxic pesticides and live dangerous viruses and bacteria. See Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., §111(a), 95 Stat. 992–93. As indicated by Congress, the reason for the 1981 increase in hazardous duty incentive pay rates for enlisted personnel was that such rates had "not been adjusted in more than 20 years, and this increase is needed to enhance the incentive value of this pay." S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981). Thus, when members of the uniformed services first became entitled to hazardous duty incentive pay for exposure to toxic pesticides or dangerous organisms under amendments to 37 U.S.C. §301 made by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., §111(a), 95 Stat. 992–93, the rates of pay were $110 a month for officers and $83 a month for enlisted personnel.

(2) The rates proposed for hazard pay serve as an inducement to undertake and continue special duties; and such an inducement need not be as great in monetary terms for lower paid and less advanced personnel as for higher paid and more highly trained personnel.

(3) Officers are usually given greater special responsibilities, aside from normal administrative control, than enlisted personnel on hazardous assignments.[3] [4]

In 1985, the rates of hazardous duty incentive pay generally, and for personal exposure to toxic pesticides and dangerous viruses and bacteria in particular, were increased to $110 per month for enlisted personnel by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a)(3), 99 Stat. 583, 648 (1985). This increase was effected by an amendment to 37 U.S.C. §301(c)(1) that did away with any distinction between officers and enlisted personnel for the vast majority of duties qualifying for hazardous duty incentive pay, specifically including personal exposure duties. Prior to amendment by the 1986 Authorization Act, 37 U.S.C. §301(c)(1) read as follows:

For the performance of the hazardous duty described in [various clauses of subsection (a) of 37 U.S.C. §301, including personal exposure duties], an officer is entitled to $110 a month and an enlisted member is entitled to $83 a month.

After amendment by the 1986 Authorization Act, 37 U.S.C. §301(c)(1) reads as follows:

For the performance of hazardous duty described in [the same clauses set out above, including personal exposure duties], a member is entitled to $110 a month.[5]

Thus, under 37 U.S.C. §301 as amended in 1986, all members, both officers and enlisted personnel,[6] were entitled to $110 per month for the performance of personal exposure duties under qualifying orders.

The legislative history of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., does not, per se, indicate the reason for doing away with the distinction between officers and enlisted personnel with respect to the rates of pay authorized for personal exposure duties, primarily because no report was ever submitted on the Senate bill, S. 1160, 99th Cong., 1st sess. (1985), in which the proposal to equalize the rates of personal exposure duty pay for officers and enlisted personnel was made.[7] In fact, however, the proposal to

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[3] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 27.

[4] For a short discussion of the treatment accorded hazardous duty incentive pays under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204, 63 Stat. 802, 809–10 (1949), see H.R. Rep. No. 81-779 (Committee on Armed Services), at 15, and S. Rep. No. 81-733 (Committee on Armed Services), at 18, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).

[5] The increase in hazardous duty incentive pay rates for enlisted personnel engaged in personal exposure duties became effective October 1, 1985. See Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §635(a), 99 Stat. 583, 648 (1985).

[6] The term "member" is defined in 37 U.S.C. §101(23) to mean "a person appointed or enlisted in, or conscripted into, a uniformed service." As such, "member" includes both officers and enlisted personnel.

[7] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41 (Committee on Armed Services), 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Armed Services Committee reported out a clean bill, S. 1160, but did not issue a report on it. As explained by Senator Goldwater, Chairman of the Armed Services Committee, when S. 1160 came before the Senate for consideration:

... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by Senate Report No. 99-41.

When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....

Most of Senate Report 99-41 continues to be applicable to this bill.

equalize officer and enlisted rates of pay for various hazardous duties, including personal exposure duties, had been made the preceding year in connection with the consideration of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984). At that time, the Senate Committee on Armed Services, reporting out S. 2723, 98th Cong., 2d sess. (1984), had included a provision that would, among other things, have equalized officer and enlisted rates of hazardous duty incentive pay for personal exposure duties.[8] In support of its recommendation, the committee stated:

> The committee proposes that the enlisted and officer rates for several hazardous duty incentive pays be equalized....
>
> The *Fifth Quadrennial Review of Military Compensation* (QRMC) examined special and incentive pays in great detail. One of its conclusions was that the differential between enlisted and officer rates for seven hazardous duty incentive pays [including personal exposure duty pay] should be eliminated....
>
> The committee agrees that enlisted and officer personnel should be paid the same incentive for exposing themselves to similar hazards. Therefore, it recommends that the rates for these seven hazardous duty pays be changed to entitle both enlisted and officer personnel to $110 per month.[9]

The Senate proposal was eliminated in conference.[10]

As indicated immediately above, the personal exposure duty pay "enhancements" adopted as part of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., closely parallel recommendations advanced by the Fifth Quadrennial Review of Military Compensation in 1984.[11] In support of its

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131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... In addition, the Committee recommended increases or enhancements to a number of special and incentive pays....
>
> The special and incentive pays ... involved in these recommendations include:
>
> g. Hazardous duty pays.

Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither S. Rep. No. 99-41 nor the "Explanatory Background Information" provided by Senator Goldwater specifically dealt with the "enhancements" to the hazardous duty incentive pay program in general, or to the personal exposure duty pay program in particular, that were contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985).

[8] See Section 148 of S. 2723, 98th Cong., 2d sess. (1984).

[9] S. Rep. No. 98-500 (Committee on Armed Services), at 210 (discussing Section 148 of the Senate bill), accompanying S. 2723, 98th Cong., 2d sess. (1984).

[10] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[11] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001.

recommendation that "[t]he rate of TP&DO [toxic pesticides and dangerous organisms] Pay should be consistent with the rates for other Hazardous Duty Incentive Pays,"[12] the Fifth Quadrennial Review stated:

> No basis yet exists to evaluate the adequacy of the rates [of hazardous duty incentive pay for personal exposure duties] for these areas; however, the rate should be consistent with other payments made for incentive purposes to those personnel required to continually expose themselves to uniquely hazardous conditions.[13]

In reaching this conclusion, the Fifth Quadrennial Review also noted:

> There is a need to provide special compensation to personnel performing duty involving highly toxic pesticides....
>
> There is currently no demonstrated need to provide special compensation to personnel working with dangerous organisms; however, future applications for this pay may evolve.[14]

In further comment on officer–enlisted differentials for various hazardous duty incentive pays, including personal exposure duties, the Fifth Quadrennial Review stated:

> During the process of reviewing the various Hazardous Duty Incentive Pays, it became increasingly clear that, although there is some incentive associated with certain pays, the primary purpose is recognition for the hazards or risks involved. It was, therefore, believed that officer/enlisted personnel should receive the same level of payment for seven of the Hazardous Duty Incentive Pays: [including] ... toxic pesticides [exposure pays]....[15]

In arriving at this conclusion, the Fifth Quadrennial Review implicitly rejected the conclusions reached by the Hook Commission in 1948.[16] In commenting on various arguments that had been advanced in favor of and against continuation of officer–enlisted differentials for hazardous duty incentive pays in general, the Fifth Quadrennial Review summarized the argument against the Hook Commission's position in the following terms:

> The Hook Commission rationale was based primarily on an examination of the needs of the aviation and submarine communities. Times have changed and those communities now have their own separate career incentive pays and bonuses.[17]

Other arguments in favor of eliminating the differential were summarized as follows:

* All personnel, officer and enlisted, experience the same hazards.
* One can never really compensate for risk of life, no matter the level.
* Basic pay and bonuses are adequate to cover any differential.

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[12] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays,* November 1983, 11, 211. Also see *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary,* January 1984, VI-6.

[13] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 211. Also see *id*., 11, and *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-6.

[14] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays,* November 1983, 210–11. Also see *id*., 11; *cf. Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-6.

[15] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays,* November 1983, 919. See *id*., 36–37.

[16] See discussion of Hook Commission recommendations concerning officer–enlisted differentials at text accompanying footnotes 3 and 4 to this chapter, above.

[17] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 920; *cf. id*., 37.

* Most hazard-related pays now cover skills that are not necessarily career oriented (across all Services); hence, a differential is not necessary for purposes of retention. However, exceptions may occur and should be individually addressed, as required.

* [F]ield interviews [conducted by the Fifth Quadrennial Review of Military Compensation] with both officer and enlisted personnel indicate "same rate for same risk" is perceived as equitable in the hazardous duty areas.[18]

Whether for these or some other reasons, Congress, in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., did in fact eliminate officer–enlisted pay differentials for duties involving personal exposure to toxic pesticides and dangerous viruses and bacteria. The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1629 (1997), increased the minimum monthly rate for personal exposure pay, which was among several types of hazardous duty pay raised under that legislation, from $110 per month to $150 per month.

Reserve forces personnel[19] entitled to compensation for inactive-duty training are technically entitled to personal exposure pay when they perform duties "involving frequent and regular exposure to highly toxic pesticides or involving laboratory work that utilizes live dangerous viruses or bacteria" under competent orders, provided Congress has appropriated sufficient funds for that purpose.[20] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying personal exposure duties while entitled to compensation under 37 U.S.C. §206 are also technically entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[21] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces is entitled to compensation under 37 U.S.C. §206, the member is, if performing qualifying duty under 37 U.S.C. §301(f), also entitled to 1/30th of the personal exposure duty pay that would be payable to a member of the active-duty force who was performing such duty. Under regulations prescribed by the President, the only personnel entitled to personal exposure pay for duties involving exposure to toxic pesticides or live dangerous viruses or bacteria are personnel exposed to such hazards for "30 consecutive days or more," and this would appear to rule out entitlements for reserve forces personnel performing inactive-duty training. Similarly, the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures*

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[18] *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pay*s, November 1983, 919–20.

[19] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[20] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[21] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

for Active Duty and Reserve Pay[22] makes no provision for entitlement of reserve forces personnel to personal exposure pay.[23] Thus, while technically entitled to hazardous duty incentive pay for personal exposure to toxic pesticides and live dangerous viruses and bacteria under 37 U.S.C. §301, reserve forces personnel would appear to be excluded from such entitlement by regulations prescribed by the President.[24] It is always possible, however, for the President to prescribe regulations extending personal exposure pay to reserve forces personnel on inactive-duty training.

Legislative authority to make toxic pesticides and dangerous organisms exposure pay available to reserve forces personnel engaged in inactive-duty training can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive-duty reserve forces personnel engaged in hazardous duties of one kind or another.[25] In fact, however, personal exposure duty was not covered by the Army Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50 percent increase in the "armory drill pay" to which they would otherwise have been entitled.[26] The first special provision for personal exposure duty pay for reserve forces personnel engaged in inactive-duty training came in the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(a), 95 Stat. 989, 992–93 (1981), which, as above noted,[27] brought duty "involving frequent and regular exposure to highly toxic pesticides or involving laboratory work that utilizes live dangerous viruses or bacteria" within the category of duties for which hazardous duty incentive pay was technically authorized for reserve forces personnel performing inactive-duty training.

As a practical matter, the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., had been intended to extend entitlement to personal exposure pay to active-duty personnel performing qualifying duties. The entitlements technically covered reserve forces personnel also because of the way Title 37 of the United States Code was organized. At the time, 37 U.S.C. §301(f) provided that a member of the reserve forces on inactive-duty training was entitled to additional pay for hazardous duty when the member "performs, under orders, any duty described in subsection (a) of this section." Subsection (a), in turn, covered entitlements to hazardous duty incentive pay of active-duty personnel, and it was to that subsection that the personal-exposure entitlement was added. The Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111a, *id*., 95 Stat. 992–93, had simply added a new category of duty for which hazardous duty incentive pay was authorized for active-duty personnel, but the pay was technically available to reserve forces personnel as well under 37 U.S.C. §301(f). Thus, reserve forces personnel on inactive-duty training had in effect "piggybacked" on active-duty personnel insofar as technical entitlement to personal exposure pay was concerned.[28]

The Department of Defense Authorization Act, 1986, Public Law 99-145, §647, 99 Stat. 583, 655 (1985), amended 37 U.S.C. §301(f) by adding certain housekeeping provisions concerning how hazardous duty

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[22] *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R.

[23] See *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶¶80311–80316, generally.

[24] It is in any event questionable whether reserve forces personnel are ever assigned to duty involving qualifying exposure during inactive-duty training.

[25] For a more complete discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training generally, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)."

[26] Subsequent enactments extended both the categories of duties for which, and the categories of personnel to whom, hazardous duty incentive pay was available for inactive-duty training. See Chapter II.D.1.b.(1) hereof, "Flight Duty (Crew Member)," for a more complete discussion of the history of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training.

[27] See text accompanying footnote 1 to this chapter, above.

[28] See discussion of the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id*., at text associated with footnote 1 to this chapter, above.

incentive pay for inactive-duty training was to be computed. As explained by the House Committee on Armed Services:

> Presently, members of the reserve and guard receive hazardous duty incentive pay (HDIP) for frequent and regular flying during active and inactive duty for training periods. To receive active duty HDIP, the reservist must fly four hours each month or a pro rata share of days on duty. For inactive duty, the requirement is two hours each month or a pro rata share of days on duty. The excess hours flown on inactive duty may be credited toward active duty flight requirements, but the reverse is not permitted. This situation is inconsistent and results in less than optimum use of flying hour resources.
>
> To ensure equity for reserve members in the computation of hazardous duty incentive pay, the committee recommends that reserve members who are entitled to HDIP for flying be permitted to credit active duty or inactive duty training flight time to fulfill active or inactive duty flight time requirements.[29]

While the concern that led to the amendment in issue was the appropriate use and apportionment of flying time, the amendment to 37 U.S.C. §301(f) was stated in broader terms, so that it applies to any of the hazardous duties set out in 37 U.S.C. §301(a), and not just flight duty. Thus, for any month in which a member of a reserve force is involved both in active duty and inactive-duty training for which he is entitled to hazardous duty incentive pay under 37 U.S.C. §301, the total amount of hazardous duty incentive pay the member may receive is based on his combined entitlement for both active duty and inactive-duty training.

Until 2003, the conditions of entitlement to personal exposure pay for active-duty personnel were set out in Sections 109(h) and (i) of Executive Order 11157, as amended; in various supplementary regulations adopted by the service secretaries pursuant to Section 113 of Executive Order 11157; and in the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶¶20361–20362 (toxic pesticides exposure) and ¶¶20371–20373 (dangerous viruses or bacteria exposure). Executive Order 13294, issued March 28, 2003, revoked Executive Order 11157. Executive Order 13294 placed responsibility for carrying out the authority delegated to the President by 37 U.S.C. §301, relevant to hazardous duty incentive pay including personal exposure pay, with the Secretaries of Commerce, Defense, Health and Human Services, and Homeland Security, as those entitlements affect military personnel under the respective jurisdictions of those departments.

Current rate of pay: The current rate of pay for duty involving exposure to toxic pesticides or live dangerous viruses or bacteria is $150 per month.

Cost: For the cost of personal exposure pay from 1982 to 2016, see table II-23, below.

[29] H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See H.R. Rep. No. 99-235 (Committee of Conference), at 434, and S. Rep. No. 99-118 (Committee of Conference), at 434, accompanying S. 1160, 99th Cong., 1st sess. (1985).

Table II-23. Personal Exposure Pay (Toxic Pesticides and Dangerous Organisms), 1982–2016

Fiscal Year	Total Personnel	Cost ($000)	Total Officers	Cost ($000)	Total Enlisted	Cost ($000)
1982	0	$0	0	$0	0	$0
1983	93	94	4	5	89	89
1984	122	123	4	5	118	118
1985	165	165	5	6	160	159
1986	211	278	4	5	207	273
1987–1995	No data available					
1996	194	218	6	8	188	210
1997	62	83	2	3	60	80
1998	67	118	1	2	66	116
1999	56	97	1	2	55	95
2000	56	96	2	4	54	92
2001	71	121	4	8	67	113
2002	85	144	5	9	80	135
2003	203	355	91	164	112	191
2004	224	391	6	11	218	380
2005	72	117	4	2	55	111
2006	250	450	20	36	230	414
2007	85	153	5	9	80	144
2008	---	---	---	---	124	223
2009	64	115	5	9	59	106
2010	452	109	397	9	55	100
2011	78	141	2	4	76	137
2012	29	36	2	3	27	33
2013	27	49	0	0	27	49
2014	21	38	1	2	20	36
2015	18	33	1	2	17	31
2016[1]	22	39	0	0	22	39

--- No data available.

[1] Estimate.

Table does not include data for the Marine Corps.
FY15 and FY16 do not include data for the Air Force and Army Officers.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.D.4.c.
Leprosy Duty Pay

Legislative Authority: Formerly, 37 U.S.C. §301(a)(5) and (c)(1). The legislative authority for this hazardous duty incentive pay was repealed by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §624(a)(1), 98 Stat. 2492, 2542 (1984).

Purpose: To provide an additional pay to induce uniformed services personnel to volunteer for duty involving contact with persons having leprosy.

Background: Before enactment of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984), extra pay for leprosy duty had been authorized for Public Health Service personnel since the turn of the century and for armed forces personnel since 1949. At that time, the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §204(a)(6) and (c), 63 Stat. 802, 809–10 (1949), extended the entitlement to members of the armed forces on the recommendation of the Advisory Commission on Service Pay, also known as the Hook Commission. Although the commission had concluded that, like diving duties, "leprosy duties offered potential death and disease to a great degree, but admittedly are primarily not dangerous but, rather, disagreeable and generally unsought occupations,"[1] it recommended that armed forces personnel involved in the "handling of lepers" be entitled to extra pay as an "incentive to engage and remain in hazardous occupations."[2] The commission's overall rationale was that "some additional pay should be awarded to individuals who, on a voluntary basis, carry out peacetime functions involving more than the ordinary military risk and danger."[3] The commission went on to note, however, that "[s]uch pay should be granted only when qualified personnel are actually in hazard duty status under orders and perform in accordance with appropriate departmental regulations rigorously observed."[4]

In response to the Hook Commission's recommendations, Congress authorized leprosy duty pay for all members of the uniformed services in the Career Compensation Act of 149, ch. 681, Pub. L. No. 81-351, *id*., classified that pay as a hazardous duty incentive pay, and fixed the rates for the pay at $100 a month for officers and $50 a month for enlisted personnel. In so doing, Congress apparently accepted the Hook Commission's conclusion that the extra pay was justified not because leprosy duty was hazardous per se but rather because it was a "disagreeable and generally unsought occupation" for which an "incentive to engage and remain in" was appropriate.

The Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(6), 69 Stat. 18, 21 (1955), increased the statutory rates of pay for the various duties that had been classified as "hazardous" by the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, *id*., including, *pari passu*, leprosy duty pay. The rates of pay were increased to $110 for officers and to $55 for enlisted personnel, a 10 percent increase, and remained at those levels until October 1, 1981.

At that time, the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §111(c), 95 Stat. 989, 993 (1981), increased the rates of pay for enlisted personnel for the various hazardous duty classifications then set out in 37 U.S.C. §301(a)[5] by 50 percent, to $83 per month. As a hazardous duty incentive pay,

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[1] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 25.
[2] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 24.
[3] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 24.
[4] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 24.
[5] Upon enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), the hazardous duty incentive pay provisions of that act, found at Section 204 thereof, 63 Stat. 809–10, were, in the main,

leprosy duty pay was increased accordingly. As explained in the Senate report, increases in hazardous duty incentive pay rates for enlisted personnel were made in recognition of the fact that such rates had "not been adjusted in more than 20 years, and this increase is needed to enhance the incentive value of this pay."[6] The 1981 increase presumably had little effect on "incentives" for enlisted personnel, however, since in practice such personnel were not assigned to leprosy duty.

In 1984 the authorization for hazardous duty incentive pay for leprosy duty was repealed by Section 624(a)(1) of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §624(a), 98 Stat. 2492, 2542 (1984), on the grounds that extra pay for such duty was "no longer necessary."[7] As explained in the relevant congressional reports, Congress eliminated the authorization for leprosy duty pay on the recommendation of the Fifth Quadrennial Review of Military Compensation.[8] [9] The Fifth Quadrennial Review had, in turn, recommended eliminating the authorization on the grounds that there was "no valid need [for leprosy duty pay]; recipients are not exposed to sufficient hazard to warrent [sic] special pay; no problem manning Federal Leprosaria."[10]

While the permanent authority for leprosy duty pay was thus repealed, the entitlement to leprosy duty pay was continued for members of the uniformed services who were actually receiving the pay on the day before enactment of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, *id*.[11] Under transitional provisions, which were in effect "saved pay" provisions, members who were entitled to leprosy duty pay on October 18, 1984, continue to be entitled to such pay for so long as they remain assigned, without any intervening break, to qualifying duties.[12] No explicit reason was given by Congress for adopting these "saved pay" provisions, although it was generally stated that Congress "accepts this ... recommendation" of the Fifth Quadrennial Review of Military Compensation concerning leprosy duty pay,[13] and the Fifth Quadrennial Review had recommended inclusion of "a provision to allow those individuals receiving [leprosy duty pay] at time of enactment to continue to receive that pay for the duration of their qualifying assignments."[14]

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classified to 37 U.S.C. §235. See 37 U.S.C. §235(a) and (c) (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L .No. 87-649, 76 Stat. 451 (1962), the hazardous duty incentive pay provisions were codified at 37 U.S.C. §301, and the various classifications of hazardous duty for which the special pay was authorized, including leprosy duty, were set out in subsection (a) thereof.

[6] S. Rep. No. 97-146 (Committee on Armed Services), at 8, accompanying S. 1181, 97th Cong., 1st sess. (1981).

[7] S. Rep. No. 98-500 (Committee on Armed Services), at 211, accompanying S. 2723, and H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[8] S. Rep. No. 98-500 (Committee on Armed Services), at 211, accompanying S. 2723, and H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[9] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001.

[10] *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-5. Also see *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 8, 161–70.

[11] The Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, 98 Stat. 2492 (1984), was enacted on October 19, 1984.

[12] Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §624(b), 98 Stat. 2492, 2542 (1984). See 37 U.S.C. §301 note.

[13] S. Rep. No. 98-500 (Committee on Armed Services), at 211, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[14] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 167. Also see *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-5.

Records indicate that the only military personnel assigned to leprosy duty, at least within the 10-year period preceding repeal of the leprosy duty pay authorization, were officers. So far as can be ascertained from available records, fewer than 10 armed forces personnel—all of whom volunteered for leprosy duty—were eligible for leprosy duty pay in any year since 1970. The primary recipients of leprosy duty pay over the last 20 years have been officers of the Public Health Service.

Before repeal of leprosy duty pay authority, reserve forces personnel[15] entitled to compensation for inactive-duty training were technically entitled to leprosy duty pay when they performed qualifying duties under competent orders, provided Congress had appropriated sufficient funds for that purpose.[16] Under 37 U.S.C. §301(f), members of the reserve forces who perform qualifying leprosy duties while entitled to compensation under 37 U.S.C. §206 are also entitled, subject to such regulations as may be prescribed by the President, to "an increase in compensation equal to 1/30 of the monthly incentive pay" payable to active-duty personnel performing such duties.[17] That is, for every "period of instruction ... or ... appropriate duty" for which a member of the reserve forces was entitled to compensation under 37 U.S.C. §206, the member was, if performing qualifying leprosy duty under 37 U.S.C. §301(f), also entitled to 1/30th of the leprosy duty pay that would be payable to a member of the active-duty force who was performing such duty. Thus, until the authority for leprosy duty pay was repealed, as set out above, leprosy duty was one of the duties for which hazardous duty incentive pay was available, at least as a technical matter, to reserve forces personnel performing inactive-duty training; under regulations prescribed by the President, a member of a reserve force who performed leprosy duties under 37 U.S.C. §301(f) while engaged in inactive-duty training was entitled to leprosy duty pay.[18]

Leprosy duty pay authority for reserve forces personnel engaged in inactive-duty training can, in one sense, be traced to the Act of July 2, 1926 (Army Air Corps Act), ch. 721, Pub. L. No. 69-446, §6, 44 Stat. 780, 782–83 (1926), which was the first legislative enactment that provided for special compensation for inactive duty reserve forces personnel engaged in hazardous duties of one kind or another.[19] In fact,

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[15] For present purposes, the term "reserve forces personnel" refers to persons who are members either of the reserve components of the uniformed services or of the National Guard, and the term "reserve forces" refers to the reserve components of the uniformed services and the National Guard. Under 37 U.S.C. §101(24), the reserve components of the uniformed services consist of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, and the Reserve Corps of the Public Health Service; under 37 U.S.C. §101(6), the "National Guard" consists of the Army National Guard and the Air National Guard. See 37 U.S.C. §101(7) and (9) concerning the Army National Guard and the Air National Guard, respectively.

[16] Unlike the provisions of Section 301 of Title 37, United States Code, dealing with the entitlement of members of the active duty forces to hazardous duty incentive pay for, among other things, crew member flight duty, the corresponding provisions of Section 301 dealing with the entitlement of members of the reserve forces participating in inactive-duty training to hazardous duty incentive pay for crew member flight duty are explicitly made contingent on congressional appropriations, i.e., members of the reserve forces participating in inactive-duty training are entitled to such pay only "to the extent provided for by appropriations." 37 U.S.C. §301(f)(1).

[17] 37 U.S.C. §206 provides, in pertinent part, that a member of the reserve forces who is not entitled to basic pay—essentially, a member of the reserve forces who is not on active duty—"is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours ... or for the performance of such other equivalent training, instruction, duty, or appropriate duties" as may be prescribed. The term "inactive-duty training" is commonly used to refer to the "period of instruction ... or ... appropriate duty" for which Section 206 "compensation" is authorized.

[18] As above indicated, the repeal of leprosy duty pay authority was accompanied by a "saved pay" provision, but under the terms of that provision, found at Section 624(b) of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, *id*., 98 Stat. 2542, see 37 U.S.C. §301 note, reserve forces personnel would not be entitled to leprosy duty pay as a result of any inactive-duty training they might perform.

[19] For a more complete discussion of the origin of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training, generally, see Chapter II.D.1.b.(1) hereof, "Flight Pay (Crew Member)."

however, leprosy duties were not covered by the Army Air Corps Act. Rather, that act merely gave "officers, warrant officers, and enlisted men of the National Guard" who were, by competent orders, required to "participate regularly and frequently in aerial flights" a 50-percent increase in the "armory drill pay" to which they would otherwise have been entitled.[20] The first special provision for leprosy duty pay for reserve forces personnel engaged in inactive-duty training came in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1942).

Among other things, the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, *id*., restated the provisions of the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, 56 Stat. 359 (1942), as amended by the Act of March 25, 1948, ch. 157, Pub. L. No. 80-460, 62 Stat. 87 (1948), insofar as the entitlement of reserve forces personnel to special pay for the performance of hazardous duties while engaged in inactive-duty training was concerned. Section 501 of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, *id*., §501, 63 Stat. 825–27, dealt generally with the entitlement of reserve forces personnel to compensation for inactive-duty training. Subsection (d) of Section 501, 63 Stat. 826, generalized the hazardous duty incentive pay entitlements of reserve forces personnel performing inactive-duty training by providing that hazardous duty incentive pay was available to such personnel whenever they were required by competent orders to perform any of the hazardous duties, set out at Section 204(a) of the Career Compensation Act of 1949, 63 Stat. 809–10, for which active-duty personnel were entitled to hazardous duty incentive pay. The duties set out in Section 204(a) as qualifying for such pay included crew member and non-crew member flight duty, submarine duty, glider duty, parachute jumping duty, explosives demolition duty, duty at a submarine escape training tank, and duty with certain diving units, as well as leprosy duties. See Section 204(a) of the Career Compensation Act, 63 Stat. 809–10.[21] No special reason was given for this reorganization of the provisions of prior law dealing with inactive-duty training pays, including inactive-duty training incentive pays for hazardous duties. The extension of incentive pay for hazardous duty to new classes of reserve forces personnel—e.g., to reserve forces personnel in an inactive-duty training status performing leprosy duties, explosives demolition duties, submarine escape training tank duties, etc.—appears to derive from the extension of such pays to active-duty personnel, and not from any special concern about reserve forces personnel and whether they should be entitled to incentive pay for performance of various hazardous duties.[22]

The repeal of the basic authority for leprosy duty pay by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §624(a), 98 Stat. 2492, 2542 (1984), effectively cut off reserve entitlements, inasmuch as the "saved pay" provisions of that enactment applied only to personnel who "continue[d]

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[20] Subsequent enactments extended both the categories of duties for which, and the categories of personnel to whom, hazardous duty incentive pay was available for inactive-duty training. See Chapter II.D.1.b.(1) hereof, "Flight Duty (Crew Member)," for a more complete discussion of the history of hazardous duty incentive pay for reserve forces personnel engaged in inactive-duty training.

[21] The inactive-duty training pay provisions contained in section 501 of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §501, 63 Stat. 802, 825–27 (1949), were classified to 37 U.S.C. §301, whereas the hazardous duty incentive pay provisions set out in section 204 of the act were classified to 37 U.S.C. §235. See 37 U.S.C. §235(a) and (c) (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the inactive-duty training pay provisions relating to hazardous duty incentive pay entitlements of reserve forces personnel were codified at 37 U.S.C. §301, together with the hazardous duty incentive pay provisions relating to active-duty personnel. The current structure of hazardous duty incentive pay entitlements for reserve forces personnel performing inactive-duty training thus derives from the organization imposed on Title 37 by the Act of September 7, 1962, Pub. L. No. 87-649, *id*., although insofar as leprosy duty pay is concerned, the repeal of the basic authority for such pay effectively cut off reserve forces entitlements as well as active-duty entitlements.

[22] The Hook Commission, whose report led to the adoption of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), did not concern itself with reserve forces compensation in any way. See e.g., "Terms of Reference," the charter given to the Hook Commission by the then Secretary of Defense, James Forrestal, in *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, vii–viii.

(without a break) to be assigned to perform such [leprosy] duties on and after [October 18, 1984]," the day before the date of enactment of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, *id*. In any event, the question of the application of the "saved pay" provisions to reserve forces personnel would appear to be of academic interest only since, at least as far as can be determined, no reserve forces personnel have performed leprosy duty in connection with inactive-duty training at any time in the 10 years preceding 1985.

Chapter II.E.1.a.
Special Pay for Physicians
(Medical Officers of the Armed Forces)

Legislative Authority: 37 U.S.C. §§301d, 302, 303a, and 303b. *cf*. 37 U.S.C. §302f.

Purpose: To provide an additional pay to enable the armed forces to attract and retain a sufficient number of medical officers/physicians to meet health-care needs of the services.

Background: To the casual observer, the history of special pays for health professionals in the armed forces may appear relatively disjointed. Apart from an early, but short-lived, experiment with a special pay for "surgeons and surgeon's mates," as more fully detailed below, the United States had no special-pay program for health professionals before 1947. At that time, a special-pay program was instituted for physicians and dentists. Veterinarians were added to the list of health professionals eligible for special pay in 1953, as were optometrists in 1971. In 1967 physicians and dentists with critical skill specialties were made eligible for a special "continuation" pay—provided they agreed to remain on active duty for a certain minimum period of time. In 1974 physicians with critical skill specialties were made eligible for yet another special pay—this time called "variable incentive pay." In 1980 the entire special-pay program for physicians was substantially changed, just as in 1985 the special-pay program for dentists was changed.

Despite the piecemeal additions of pays and different categories of personnel to the special-pay program for health professionals, there is, and has always been, a single unifying theme underlying the program—namely, the need to attract and retain a sufficient number of qualified health professionals to meet the health-care demands of the armed forces. Whereas all of the elements of the special-pay program for health professionals have been, and continue to be, addressed to this need, Congress, at least prior to enactment of the Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, 94 Stat. 587 (1980), perceived a number of flaws in the program. First, special-pay authority was scattered among a number of different provisions of Title 37, United States Code, resulting in great complexity of the system. This complexity, in turn, led to substantially different treatment of apparently similarly situated personnel, with consequent adverse effects on retention and morale.[1] Second, since each of the individual provisions of Title 37 that made up the system had a separate expiration date, affected personnel could not be certain whether a particular special pay would or would not survive the next congressional review, and this uncertainty had adverse effects on retention and morale.[2] To address these perceived flaws, Congress in 1980 adopted the Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, *id*., which, among other things, established a unified special-pay program for physicians in the armed forces and made the entitlements for all health professionals permanent—subject, of course, to possible future congressional withdrawal. In the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §639(a), 99 Stat. 583, 649–51 (1985), Congress substantially changed the preexisting special-pay program for dentists, bringing that program more into line with the special-pay program applicable to physicians. Other changes have since been made to the medical special-pays programs for members of the uniformed services, but the changes have in the main been marginal or perfecting in nature—changes in the rates of pay authorized or conditions of receipt, almost all keyed to special manning or retention problems—not the structural sea changes to the medical special-pays programs effected by the Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, *id*.

To understand the present system of special pays for different categories of health professionals, which derives partially from the 1980 and 1986 acts referred to immediately above and partially from earlier

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[1] See, e.g., H.R. Rep. No. 95-1118 (Committee on Armed Services), at 113, accompanying H.R. 10929, 95th Cong., 2d sess. (1978), and H.R. Rep. No. 96-904 (Committee on Armed Services), at 4, accompanying H.R. 6982, 96th Cong. 2d sess. 1980).

[2] See, e.g., H.R. Rep. No. 95-1118 (Committee on Armed Services), at 113, accompanying H.R. 10929, 95th Cong. 2d sess. (1978), and H.R. Rep. No. 96-904 (Committee on Armed Services), at 4, accompanying H.R. 6982, 96th Cong., 2d sess. (1980).

enactments, however, it is most convenient to look at the gradual, accretionary process by which the system got to be what it was before the 1980 restructuring.

Although the existing special pay for health professionals is of comparatively recent origin, the need for such a pay was recognized as long ago as the Revolutionary War. In March of 1777, General George Washington wrote to John Hancock, a member of the Continental Congress, in terms that are still applicable:

> There is one more thing which claims in my opinion the earliest attention of Congress. I mean the pay of regimental surgeons, and that of their mates. These appointments are so essential, that they cannot be done without. Their pay in the first instance is so low, so inadequate to the services which should be performed, that no man sustaining the character of gentleman, and who has the least medical abilities, or skill in the profession, can think of accepting it.[3]

Despite General Washington's recommendation, it was not until 1814 that Congress, in the Act of March 30, 1814, ch. 37, §18, 3 Stat. 113, 115 (1814), adopted a special additional pay for medical officers—$15 a month for "regimental surgeons and surgeon's mates." This pay remained in effect only through June 30, 1815, and from that time until 1947 no additional pay was authorized for medical officers. However, from 1838 until 1908, when the same rate of pay was prescribed for all Army officers of the same grade, the medical department, along with the cavalry, was the highest paid branch of the Army.

Special Pay for Physicians

The Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, ch. 494, Pub. L. No. 80-365, §101, 61 Stat. 776, 776–77 (1947), authorized a $100 special monthly pay for regular officers who were then commissioned in the Medical or Dental Corps and for those who would be so commissioned thereafter but before September 1, 1952. The special pay was also authorized for reserve officers of the Medical or Dental Corps who, during the same period, volunteered and were accepted for extended active duty of one year or longer. The act stipulated that no officer could be paid a career total of special pay for medical or dental service in excess of $36,000. The announced purpose of the act was to assist the armed services (and the Public Health Service) in attracting and retaining an adequate number of physicians and dentists by offering the $100 monthly special pay as an inducement to continued service. However, the Senate Armed Services Committee also stated that "[a]ctually, the $36,000 additional salary which will be paid the medical and dental officer if the bill is enacted, merely compensates him for the additional expense of his education, and for the five years of lost earning power which result from his longer period of academic training."[4] In addition to providing this special pay, the act authorized original appointments in the Army or Navy Medical or Dental Corps in any permanent commissioned grade up to colonel in the Army or captain in the Navy.

In 1948 the so-called Hook Commission made a comprehensive study[5] of the military pay system and recommended that the special-pay program for physicians and dentists be continued in essentially its existing form and amount, but that it not be paid to interns. In line with the commission's recommendations, the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §203, 63 Stat. 802, 809 (1949), restated the special-pay authority and barred officers serving as medical or dental interns from entitlement. The Career Compensation Act of 1949, ch. 681, *id*., retained the September 1, 1952, cutoff date originally established in the Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, ch. 494, Pub. L. No. 80-365, §101, 61 Stat. 776, 776–77 (1947), so that the only persons who would be entitled to special pay for medical or

[3] Quoted from *Differential Pays for the Armed Services of the United States*, Report of the Commission on Incentive-Hazardous Duty and Special Pays, Vol. II, March 1953, 205.
[4] S. Rep. No. 608 (Committee on Armed Services), at 4, accompanying S. 1661, 80th Cong., 1st sess. (1947).
[5] *Career Compensation for the Uniformed Services*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948.

dental service after September 1, 1952, would be officers who had initially entered on active duty before that date.[6]

The Act of September 9, 1950, ch. 939, Pub. L. No. 81-779, §1, 64 Stat. 826, 826–27 (1950), established the so-called "doctor draft," which required males under age 50 qualified in medical, dental, or "allied specialist categories" to register under the Selective Service Act and made them subject to special induction calls.[7] It also extended the $100 special-pay entitlement to reserve medical and dental officers involuntarily ordered to active duty, as well as to those volunteering for active duty. The main purpose of this provision was to encourage draft-liable doctors and dentists to accept reserve commissions and to perform their active duty in that status rather than actually being inducted as enlisted members.

The Act of June 25, 1952, ch. 459, Pub. L. No. 82-410, §1, 66 Stat. 156, 156–57 (1952), extended the special-pay cutoff date from September 1, 1952, to July 1, 1953, and the Act of June 29, 1953, ch. 158, Pub. L. No. 83-84, §8, 67 Stat. 86, 89 (1953), further extended it to July 1, 1955. The Act of June 30, 1955, ch. 250, Pub. L. No. 84-118, §203, 69 Stat. 223, 225 (1955), extended the special-pay cutoff date once again, this time to July 1, 1959.

The Act of April 30, 1956, ch. 223, Pub. L. No. 84-497, §5, 70 Stat. 119, 122 (1956), changed the rate of special pay for physicians from a flat rate to a graduated scale based on length of active service—$100 a month during the first two years of active service; $150 during active service years two to six; $200 during years six to 10; and $250 thereafter. It also gave physicians a four-year constructive-service credit for promotion and pay purposes, plus an additional one-year constructive credit for these purposes for physicians who had completed one year of internship.[8] [Act of April 30, 1956, ch. 223, *id*., §2(2), 70 Stat. 121. See 37 U.S.C. §205(a)(7) and (8) as in effect before enactment of the Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, §402, 94 Stat. 2835, 2904 (1980).] These constructive-service credits, in combination with the higher original-appointment grade authorized by the Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, ch. 494, Pub. L. No. 80-365, §101, 61 Stat. 776, 776–77 (1947), were designed to bring about parity between officers who entered the service after a delay caused by additional medical education and training and those who entered after receiving a bachelor's degree.[9] Thus, for example, a physician entering active duty immediately after medical school would be appointed to pay grade O-3 and entitled to the basic pay of that grade for over four years of service. In addition, such an officer would be eligible for promotion to pay grade O-4 about three years after entering upon active duty. In other words, the pay grade, basic pay, and promotion opportunity of an affected officer would at this point be the same as they would have been had the officer entered the service after completing four years of college. The purpose of the constructive-service credit and increased special pay was to arrest and reverse the "staggering loss" of regular medical and dental officers by providing them "a much more favorable income than that which they have heretofore experienced" and by placing them "in a somewhat more favorable position when their present income is compared with that of their counterparts serving as physicians or dentists under the Civil Service system or in the Veterans Administration."[10]

The Act of March 23, 1959, Pub. L. No. 86-4, §5, 73 Stat. 13 (1959), extended the cutoff date for special pay from July 1, 1959, to July 1, 1963, and the Act of April 2, 1963, Pub. L. No. 88-2, §5, 77 Stat. 4 (1963), further extended it to July 1, 1967. The Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §4, 77 Stat. 210, 212 (1963), raised the monthly rate of special pay for physicians with between six and 10 years of active service from $200 to $250 and the rate for those with 10 or more years of active service from $250 to

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[6] The "cutoff" date for the special pay was not an "expiration" date; it created a bar against any new entitlement but did not terminate the special pay of any officer whose entitlement had been acquired prior to that time.

[7] Veterinarians, optometrists, pharmacists, and osteopaths were specifically included in the "allied specialist categories" construct in the "Doctors Draft Act." Act of September 9, 1950, ch. 939, Pub. L. No. 81-779, §6, 64 Stat. 826, 828 (1950).

[8] The Act of April 30, 1956, ch. 223, Pub. L. No. 84-497, §5, 70 Stat. 119, 122 (1956), generally provided the same benefits for dentists.

[9] See text accompanying footnote 4 to this chapter, above.

[10] H.R. Rep. No. 1806 (Committee on Armed Services), at 2, 4, 6, accompanying H.R. 9428, 84th Cong., 2d sess. (1956).

$350. These rate increases were added to the pay bill by the Senate Armed Services Committee, which explained its action as follows:

> Prior to 1956 special pay for physicians and dentists was authorized only in the amount of an additional $100 a month. The general military pay legislation of 1955 was not sufficient to retain physicians and dentists in the necessary numbers. In 1956 Congress increased the special pay, now ranging from $100 to $250 a month, in order to meet this problem. Following the 1956 legislation the retention rate increased considerably since, in terms of compensation, a career in the armed forces was made more attractive for physicians and dentists and the gap between military compensation for these groups was narrowed as compared to Government physician rates (civil service and Veterans' Administration) and the incomes of private physicians. Since 1956, even including the 1958 Military Pay Act, the gap has widened between the compensation of the military physicians and those in civilian Government and those in private practice.
>
> The increase of $50 and $100 as provided in the bill, plus the increases in basic pay otherwise contained in the bill for the grades concerned, should serve to improve the now declining retention rate for those two groups.[11]

The Act of June 30, 1967, Pub. L. No. 90-40, §5, 81 Stat. 100, 105 (1967), extended the cutoff date for special pay from July 1, 1967, to July 1, 1971, and the Act of September 28, 1971, Pub. L. No. 92-129, §104, 85 Stat. 348, 355 (1971), further extended it to July 1, 1973.

The Act of July 9, 1973, Pub. L. No. 93-64, §§201–203, 87 Stat. 147, 149 (1973), extended the cutoff date from July 1, 1973, to July 1, 1975, on the grounds that it would be inequitable to cut off arbitrarily special pay for the health professionals in question who happen to have entered service after June 30, 1973.[12]

The Act of May 6, 1974, Pub. L. No. 93-274, §2, 88 Stat. 94, 96 (1974), extended the cutoff date for special pay from July 1, 1975, to July 1, 1977. The purpose of the act was to remedy an "immediate and critical problem involv[ing] physicians."[13] In addition, the act modified the structure of special pay for physicians by making them eligible for the maximum $350 monthly rate after two or more years of active service rather than after 10 or more years.

The Act of September 30, 1977, Pub. L. No. 95-114, §1, 91 Stat. 1046 (1977), further extended the cutoff date for physicians, this time to September 30, 1978. The extension for physicians was approved because of "a critical need to provide extra incentives ... to recruit adequate numbers of medical personnel."[14] The cutoff dates for all health professionals were further extended by the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §801, 92 Stat. 1611, 1619 (1978), this time to September 30, 1980. As reflected in the relevant congressional report, the extension was predicated on the need to continue the existing incentives for retention of health professionals while a detailed review of the entire question of special pay for such personnel was undertaken by Congress.[15]

Prior to enactment of the Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, 94 Stat. 587 (1980), then, the rates of monthly special pay for physicians were as follows:

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[11] S. Rep. No. 387 (Committee on Armed Services), at 24–25, accompanying H.R. 5555, 88th Cong., 1st sess. (1963).
[12] S. Rep. No. 93-235 (Committee on Armed Services), at 16, accompanying S. 1916, 93d Cong., 1st sess. (1973).
[13] H.R. Rep. No. 93-984 (Committee of Conference), at 5, accompanying S. 2770, 93d Cong., 2d sess. (1974).
[14] S. Rep. No. 95-400 (Committee on Armed Services), at 2, accompanying S. 1731, 95th Cong., 1st sess. (1977). See H.R. Rep. No. 95-479 (Committee on Armed Services), at 3–4, accompanying H.R. 8011, 95th Cong., 1st sess. (1977).
[15] H.R. Rep. No. 95-1118 (Committee on Armed Services), at 113, accompanying H.R. 10929, 95th Cong., 2d sess. (1978). See H.R. Rep. No. 95-1402 (Committee of Conference), at 52, accompanying H.R. 10929, 95th Cong., 2d sess. (1978).

Monthly Rate	Applicable To
$100	Physicians with less than two years of active medical service
$350	Physicians with two or more years of active medical service

Special Continuation Pay for Physicians

The Act of December 16, 1967 (Uniformed Services Pay Act of 1967), Pub. L. No. 90-207, §1(2)(A), 81 Stat. 649, 651 (1967), established a special continuation-pay entitlement for physicians and dentists, codified at former 37 U.S.C. §311.[16] The act authorized, under regulations prescribed by the Secretary of Defense—or the Secretary of Health, Education, and Welfare (now the Secretary of Health and Human Services) for Public Health Service officers—payment of up to four months' additional basic pay for each year of an active-duty agreement accepted by the Secretary concerned from a medical or dental officer who (1) had a critical specialty, (2) had completed any definitive active-duty obligation he had under law or regulation, and (3) had executed an agreement to remain on active duty for at least one additional year. Although the act authorized continuation pay for both medical and dental officers, the dental-officer authority was not used until 1972. In its report on the Uniformed Services Pay Act of 1967, Pub. L. No. 90-207, *id*., the Senate Armed Services Committee made these observations with respect to continuation pay:

> The proposed continuation pay authority would be similar in form to the variable reenlistment bonus now authorized for the payment of first-term enlistees in critical skill areas.
>
> The Committee would emphasize that despite the fact that dental officers are within the scope of the authority authorizing continuation pay, it is not the intention of the Committee that this pay be made applicable to dental officers in view of the fact that the retention problem at the present time is in no way comparable to the present conditions of the Medical Corps.
>
> . . .
>
> The Committee emphasizes that the proposed permissive system for continuation pay is an extraordinary method of meeting a serious retention problem. The proposed authority appears to be the best means however for dealing with a serious and deteriorating problem of the retention of certain career medical officers. The Committee observes, at the same time, however, that this system does not represent the ideal approach to the matter of military compensation and such authority should be used only in drastic situations. The Committee has therefore added language which would require annual reports from the Secretaries of Defense and Health, Education, and Welfare regarding the operation of this special pay program and the justification for its continuance.[17]

These observations, and the legislative history of the act in general, make it clear that although the income of private physicians was used for comparison purposes to determine how much, if any, extra pay was needed to counter the attraction of civilian practice and to induce military physicians to continue on active duty, the purpose of continuation pay was analogous to that of such retention incentives as the variable reenlistment bonus.

Defense representatives had indicated during the hearings on Uniformed Services Pay Act of 1967, Pub. L. No. 90-207, *id*., that entitlement to continuation pay "could begin after the end of the first obligated tour of duty." No member of Congress expressed a contrary view. However, after the law's enactment, the Comptroller General of the United States ruled that its actual language, which authorized payment to a medical officer "who has completed any other definitive active-duty obligation that he has under law or regulation," meant that any and all obligated active service must be paid back as a prerequisite for continuation-pay entitlement. The Act of October 18, 1968, Pub. L. No. 90-603, 82 Stat. 1187 (1968), amended this language to make it clear that an

[16] Dentists were also covered by the special continuation pay.
[17] S. Rep. No. 808 (Committee on Armed Services), at 10–11, accompanying H.R. 13510, 90th Cong., 1st sess. (1967).

officer, if otherwise eligible, could receive continuation pay after the completion of the initial active-duty obligation.

The Act of May 6, 1974, Pub. L. No. 93-274, §1(1) and (4), 88 Stat. 94, 94–96 (1974), terminated the continuation-pay authority for medical officers below pay grade O-7 and authorized a larger payment, variable incentive pay, in its place. Since it did not make medical officers of pay grade O-7 or higher eligible for the variable incentive pay, the act continued the existing continuation pay authority for such officers.

Variable Incentive Pay for Medical Officers

The Act of May 6, 1974, Pub. L. No. 93-274, §1(4), 88 Stat. 94, 95–96 (1974), created variable incentive pay (VIP) for medical officers of the armed forces and the Public Health Service, codified at former 37 U.S.C. §313. The act authorized, under regulations prescribed by the Secretary of Defense—or the Secretary of Health, Education, and Welfare (now the Secretary of Health and Human Services) for Public Health Service Officers—payment of up to $13,500 for each year of an active-duty agreement accepted by the Secretary concerned from a qualified medical officer who (1) was below pay grade O-7, (2) had a critical specialty, (3) was not serving in an initial active-duty obligation of four years or less or the first four years of an initial obligation of more than four years, and (4) was not undergoing intern or initial residency training. The congressional intent in creating VIP was described in these terms:

> The purpose of the proposed legislation is to ensure a level of military physician staffing in an all-volunteer environment that will enable the military medical departments to continue to provide adequate health services for our Armed Forces.
>
> Historically, the most difficult officer group to retain on active duty beyond their first obligated tour is that of the health care professionals and within that group physicians are, by far, the most difficult subgroup to retain on active duty. A major cause of the difficulty is the disparity between the income of the military health professional and his civilian counterpart. It is only in the physician group that major pay disparities currently exist. Priority action is required in order to overcome this problem.
>
> The proposed legislation has the objective of authorizing an experimental eighteen months program to reduce the gap between the income of civilian and military physicians by improving the rates of special pay for this subgroup and by substituting an improved variable incentive pay in place of the existing continuation pay. We do not believe it feasible or desirable to attain complete parity with civilian physician incomes.[18]

It is clear from the legislative history of the act that, while the income of physicians in private practice was used as a benchmark to measure how much extra pay was needed to induce military physicians to remain on active duty, VIP—which was generally referred to as a "bonus" by all witnesses and members of Congress and persistently called a "reenlistment bonus" by one senator—was intended as a physicians' analog to such retention bonuses as the selective reenlistment bonus and special pay for nuclear-qualified officers. One defense witness, for instance, expressed this view in these terms:

> One of the reasons we are asking for a bonus plan rather than an increase in basic compensation, is to permit us to tailor the amounts that we would pay to individuals based upon changing circumstances. It would hardly seem consistent with that goal to permit people to enter into long-term contracts which might result in our paying larger bonuses than was necessary.[19]

As implemented by Department of Defense regulations, VIP was limited to medical officers in pay grades O-3 through O-6 who accepted an active-duty agreement of one, two, three, or four years. The offer was

[18] S. Rep. No. 93-658 (Committee on Armed Services), at 11–12, accompanying S. 2770, 93d Cong., 1st sess. (1973).
[19] *Hearings of December 14, 1973, on S. 2770 before the Senate Armed Services Committee,* 93d Cong., 1st sess. 98 (1973) (testimony of the Deputy Assistant Secretary of Defense for Health Resources and Programs).

to be made only to officers whose professional qualifications or demonstrated performance warranted it. The regulations also provided that to be eligible for VIP a medical officer must have had no disqualifying active-duty obligation, which was defined as including, in addition to the initial obligation specified in the law, an obligation resulting from (1) an agreement executed by an officer in a reserve component to enter active duty after completion of professional education and training, (2) participation in an educational program in which the officer was on active duty during attendance at the professional school that qualified the officer as a medical officer, not to exceed a disqualifying period of the first four years as a medical officer, and (3) an agreement entered into under the continuation pay program. This last limitation was subject to an exception, however, in that an officer who would be eligible for VIP were the officer not under a continuation-pay obligation could repay the prorated unearned portion of the continuation-pay entitlement and thus qualify for VIP. While the law provided that VIP should be paid only to officers in critical skill specialties, the Department of Defense as a matter of policy treated all medical specialties in all years of service categories as "critical" for the purpose of VIP eligibility. VIP rates for all medical specialties were as follows:

Years of Service (including constructive service credit)	**Length of Active-Duty Agreement**			
	1 Year	**2 Years**	**3 Years**	**4 Years**
4 through 13	$12,000	$12,500	$13,000	$13,500
14 through 19	11,500	12,000	12,500	13,000
20 through 25	11,000	11,300	11,600	12,000
26 or more	10,000	10,300	10,600	11,000
Obligated Officers	9,000	9,000	9,000	9,000

Note: An obligated officer was one who had an unserved non-disqualifying active-duty obligation resulting from participation in military-funded medical training of one school year or more.

VIP could be paid in a lump sum after completion of the period specified in the active-duty agreement, or in advance in equal annual, semiannual, or monthly installments, at the option of the officer concerned.

The Act of May 6, 1974, Pub. L. No. 93-274, §2, 88 Stat. 94, 96 (1974), specified that the VIP authority would expire on June 30, 1976. The Fiscal Year Adjustment Act, Pub. L. No. 94-273, §2(18), 90 Stat. 375 (1976), extended the authority to September 30, 1976, as one of a group of date adjustments made in connection with the new October–September fiscal year cycle. Section 305 of the Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §305, 90 Stat. 923, 926 (1976), further extended the VIP authority to September 30, 1977; and the Act of September 30, 1977, Pub. L. No. 95-114, §1, 91 Stat. 1046 (1977), again extended the authority to September 30, 1978. The Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §801(a), 92 Stat. 1611, 1619 (1978), extended the authority to September 30, 1980. VIP authority as pertaining to medical personnel in the armed forces was terminated by the Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, §3(b), 94 Stat. 587, 590–91 (1980), although it continued to apply to qualifying medical personnel in the Public Health Service until September 15, 1981. At that time, that remaining authority was repealed by the Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, §414(a), 94 Stat. 2835, 2906 (1980).

The prohibition in the Act of May 6, 1974, Pub. L. No. 93-274, *id*., against variable incentive-pay eligibility during initial residency training and its elimination of continuation pay for medical officers below pay grade O-7 adversely affected a small group of medical officers below that grade in a way not intended. The residency training of these officers had for various reasons—including, in some cases, a need for their services in combat zones—been delayed until after they had completed several years of active duty. When they were in residency training they were, under the Act of May 6, 1974, *id*., excluded from eligibility for both variable incentive pay and continuation pay. To cover such officers, and as a "saved pay" measure, the Act of August 29, 1974, Pub. L. No. 93-394, 88 Stat. 792 (1974), reinstated eligibility for continuation pay retroactively to

June 1, 1974, for medical officers below pay grade O-6 who were undergoing initial residency training and who were on active duty on June 1, 1974.

The Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, §4, 94 Stat. 587, 591–92 (1980), adopted an entirely new set of special-pay provisions for physicians and accordingly withdrew authority for any remaining continuation-pay entitlement from such personnel.

Special Pay for Medical Officers of the Armed Forces

The Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, §2(a), 94 Stat. 587, 587–88 (1980), substantially amended the prior provisions of Title 37, United States Code, dealing with special-pay entitlements of health professionals in the armed forces. All prior authority dealing with special pay for physicians in the armed forces—i.e., former 37 U.S.C. §§302, 311, and 313 as in effect before enactment of the Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, *id*.—was effectively repealed, at least to the extent it covered such personnel,[20] to be replaced by an entirely new 37 U.S.C. §302, in which authority for such special pay is unified. In addition, the new §302 made permanent the special-pay program for medical officers, thereby eliminating the concerns of many officers over whether the special-pay programs for health professionals would be terminated.

Under the new system of special pay for physicians in the armed forces—now formally referred to as "medical officers of the armed forces"—four different types of special pay, none of them subject to a statutory cutoff date, were established. The four types of special pay are: (1) variable special pay, codified at 37 U.S.C. §302(a)(2) and (3); (2) additional special pay for physicians not in training, codified at 37 U.S.C. §302(a)(4); (3) special pay for board certification, codified at 37 U.S.C. §302(a)(5); and (4) incentive special pay, codified at 37 U.S.C. §302(b). None of these pays is dependent on an affected officer's obligated duty status.

The four new special pays authorized for medical officers of the armed forces[21] by the Uniformed Services Health Professional Special Pay Act of 1980, Pub. L. No. 96-284, §2(a), 94 Stat. 587, 587–88 (1980), were all directed to the problem of retention. As stated by Congress:

> The most serious deficiency [in the military medical care system] was the numerical shortage of military physicians and to a lesser degree the shortage in the four categories of health professionals.... The unanimous opinion of [a number of health professionals] interviewed [in connection with Congressional consideration of the Act] was that a major

[20] Neither 37 U.S.C. §§311 or 313, dealing with special continuation pay and variable incentive pay, respectively, was repealed outright. Rather, physicians in the armed forces were withdrawn from the scope of operation of those provisions. In particular, until enactment of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985), 37 U.S.C. §311 still in terms authorized continuation pay for dentists in the armed forces, and physicians and dentists in the Public Health Service were also entitled to such pay under the provisions of 42 U.S.C. §210(a), as added by Section 805 of the Mental Health Systems Act, Pub. L. No. 96-398, §805, 94 Stat. 1564, 1608 (1980). 37 U.S.C. §313 continued to authorize variable incentive pay for physicians in the Public Health Service until repealed by the Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, §414(a), 94 Stat. 2835, 2906 (1980).

[21] A separate form of special pay was authorized for reserve officers who were medical officers of the armed forces, who served on active duty as medical officers for not less than one year, and who were under a call or order to active duty for less than one year. As initially enacted, the rate of special pay for affected personnel was $100 per month for officers who had completed less than two years of active duty and $350 per month for officers who had completed at least two years of active duty. See 37 U.S.C. §302(h), as amended by Section 1342(d) of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §1342(d), 100 Stat. 3816, 3991 (1986). This special pay for reserve medical officers was increased to $450 per month for all officers on active duty under a call or order to active duty for less than one year by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §702(e), 103 Stat. 1352, 1468–1469 (1989). Under the amendments to 37 U.S.C. §302(h) made by the 1990/1991 National Defense Authorization Act, no distinction was made in the amount of pay authorized for reserve medical officers on the basis of the amount of active duty time they had completed.

improvement in the compensation system was needed if the numerical shortage in health professionals was to be overcome.[22]

A discussion of each of the four special pays as initially enacted by Congress follows:

Variable special pay. Under the special-pays program for medical officers of the armed forces established by the Uniformed Services Health Professionals Special Pay Act of 1980, variable special pay is payable to all military physicians on active duty. Except for general and flag officers, who received a flat $1,000 in variable special pay per year, and persons serving an internship, who received $1,200 per year, the rates of variable special pay initially established by the Uniformed Services Health Professionals Special Pay Act of 1980 ranged from a low of $5,000 to a high of $10,000 per year, depending on an affected officer's years of creditable service, as follows:

Annual Years of Creditable Service	**Variable Special Pay**
Less than 6	$5,000
6 but less than 8	10,000
8 but less than 10	9,500
10 but less than 12	9,000
12 but less than 14	8,000
14 but less than 18	7,000
18 but less than 22	6,000
Over 22	5,000

Variable special pay, although established as an annual entitlement, is payable to affected personnel monthly.

As reflected in the relevant congressional report, the rates of variable special pay initially established by Congress were "set to achieve the level of compensation by years of service that is believed by the [House Committee on Armed Services] to represent a system of compensation that would attract and retain the number and quality of physicians needed by the military services."[23]

Additional special pay. The Uniformed Services Health Professionals Special Pay Act of 1980 also established another form of special pay—known as "additional special pay"—for medical officers of the armed forces not engaged in medical internship or initial residency training. Entitlement to such additional pay was, and continues to be, conditioned on an affected officer's execution of a written agreement to remain on active duty for a period not less than one year. As initially established, medical officers with less than 10 years of creditable service were entitled to $9,000 per year in additional special pay, whereas officers with 10 or more years of

[22] H.R. Rep. No. 96-904 (Committee on Armed Services), at 2, accompanying H.R. 6982, 96th Cong., 2d sess. (1980). Also see *id*., at 4, and S. Rep. No. 96-749 (Committee on Armed Services), at 2, accompanying S. 2460, 96th Cong., 2d sess. (1980). (In a special transitional provision, Section 7 of the Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, §7, 94 Stat. 587, 593 (1980), provides that no medical officer affected by the act is to receive less pay, including basic and special pays, under the new provisions than if former 37 U.S.C. §§302, 311, and 313 continued to apply. See 37 U.S.C. §302 note. See also, e.g., H.R. Rep. No. 96-904 (Committee on Armed Services), at 14, accompanying H.R. 6982, 96th Cong., 2d sess. (1980).)

[23] S. Rep. No. 96-749 (Committee on Armed Services), at 3, accompanying S. 2460, 96th Cong., 2d sess. (1980). See H.R. Rep. No. 96-904 (Committee on Armed Services), at 5, accompanying H.R. 6982, 96th Cong., 2d sess. (1980); and H.R. Rep. No. 96-517 (Committee on Armed Services), at 3, accompanying H.R. 5235, and S. Rep. No. 96-507 (Committee on Armed Services), at 2, accompanying S. 523, 96th Cong., 1st sess. (1979).

service were entitled to $10,000 per year. Additional special pay is payable annually as a lump sum at the beginning of the 12-month period for which the payment is to be made. An officer who leaves active duty before the end of the 12-month period for which he or she received a payment is required to refund the "unearned" portion of the payment.[24]

Board-certification pay. Special pay for board certification is available to all military physicians who have achieved board certification in a medical specialty. As initially established by the Uniformed Services Health Professionals Special Pay Act of 1980, board-certification pay was payable, on a monthly basis, in amounts ranging from $2,000 to $5,000 per year depending on an affected officer's years of creditable service, as follows:

Years of Creditable Service	**Annual Pay for Board Certification**
Less than 10	$2,000
10 but less than 12	2,500
12 but less than 14	3,000
14 but less than 18	4,000
Over 18	5,000

Incentive special pay. Incentive special pay, the last of the special pays for medical officers of the armed forces authorized by the Uniformed Services Health Professionals Special Pay Act of 1980, was initially designed to be payable to medical officers of the armed forces not undergoing medical internship or initial residency training who were in critical medical specialties, who practiced in those specialties, and who executed written continuation agreements binding them to remain on active duty for a period of not less than one year. In connection with the requirement that an officer receiving incentive special pay be in a critical medical specialty, the Secretary of an affected officer's military department was required to certify that the officer was qualified in such a medical specialty. Officers meeting the various eligibility requirements were entitled to incentive special pay not to exceed $8,000 per year. As was true of additional special pay, incentive special pay was, and continues to be, payable annually in a lump sum at the beginning of the 12-month period for which the payment is to be made. As initially enacted, the total amount of incentive special pay paid to all medical officers of the armed forces could not exceed 6 percent of the total amount of all special pays authorized for such officers under 37 U.S.C. §302 generally.

As reflected in the relevant congressional report, Congress intended that incentive special pay be used only "to provide additional incentive [*sic*] to physicians in specialties in critical supply."[25] In addition, Congress indicated it was establishing such special pay authority "to test the effectiveness of similar forms of additional pay to address other shortages in the physician force."[26] Congress also indicated that it expected the incentive special pay authority would not be used to alter the general structures of variable special pay by years of service.[27]

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[24] Under an amendment to 37 U.S.C. §302 effected by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §640(2), 99 Stat. 583, 652 (1985), a discharge in bankruptcy entered less than five years after the termination date of an agreement does not discharge the obligation in question. See H.R. Rep. No. 99-81 (Committee on Armed Services), at 233, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[25] H.R. Rep. No. 96-904 (Committee on Armed Services), at 6, accompanying H.R. 6982, 96th Cong., 2d sess. (1980). See S. Rep. No. 96-749 (Committee on Armed Services), at 3, accompanying S. 2460, 96th Cong., 2d sess. (1980).

[26] H.R. Rep. No. 96-904 (Committee on Armed Services), at 6, accompanying H.R. 6982, 96th Cong., 2d sess. (1980). See S. Rep. No. 96-749 (Committee on Armed Services), at 3, accompanying S. 2460, 96th Cong., 2d sess. (1980).

[27] S. Rep. No. 96-749 (Committee on Armed Services), at 3, accompanying S. 2460, 96th Cong., 2d sess. (1980).

Only one amendment was made to the four special-pay programs for medical officers of the armed forces before Congress extensively reconsidered the issue of retention of medical officers in connection with its deliberations on the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §§702 and 703, 103 Stat. 1352, 1468–1471 (1989). In 1987, the incentive special-pay program for medical officers of the armed forces was amended by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §716, 101 Stat. 1019, 1113 (1987), in two particulars. First, the act repealed the limitation of the total amount of incentive special pay to 6 percent of all special pays authorized for medical officers of the armed forces, and second, the act removed the $8,000 annual ceiling on the amount of incentive special pay payable to any one medical officer, provided that the only medical officers who could be paid more than $8,000 per year were medical officers determined by the Secretaries of their respective military departments to be qualified and serving in "health profession skill[s]" designated as "critically needed wartime skill[s]." In support of these two changes, the House Committee on Armed Services, which had proposed the changes in the first instance, noted that the 6-percent limitation and the $8,000 ceiling for incentive special pay, which had been "designed to provide a further incentive [in addition to variable special pay, additional special pay, and board certification pay] for hard-to-retain specialties," had been "established in 1980 and ... not changed since that time."[28] The committee went on to state:

> As a result of the improvements in the medical special pay structure enacted in [the Uniformed Services Health Professionals Special Pay Act of] 1980 and the pipeline of medical school graduates provided by the Armed Forces Health Professions Scholarship Program and the Uniformed Services University of the Health Sciences, the [military] services are able to meet their active duty requirement for physicians in specialties like pediatrics, family practice, and internal medicine. This is not the case for a number of others, however, specifically those specialties that can command very high salaries in the civilian sector. These highly paid specialists, such as surgeons, are also the ones that will be in critically short supply in wartime, particularly in the early days of a mobilization.
>
> The committee believes greater flexibility is needed in the incentive special pay program to permit larger amounts to be targeted at physicians with critical wartime skills, even though this may result in payment to a smaller number of physicians. As a result, ... the committee recommends removal of the $8,000 limit on individual payments and the six percent limit on funds available for this program. For fiscal year 1988, the committee recommends that any increase in this program be absorbed from within existing resources. In the future, however, the department would be able to request the Congress to approve a higher appropriation level for incentive special pay.[29] [30]

Without amending any of the four special-pay programs for medical officers of the armed forces set out at 37 U.S.C. §302, the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §612, 102 Stat. 1918, 1979–1981 (1988), established a new retention bonus for medical officers as a provisional, uncodified program for dealing with "the retention of health care professionals."[31] [32] As the legislation was initially enacted, a qualified medical officer who executed a written agreement during the nine-month period

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[28] H.R. Rep. No. 100-58 (Committee on Armed Services), at 213, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).
[29] H.R. Rep. No. 100-58 (Committee on Armed Services), at 214, accompanying H.R. 1748, 100th Cong., 1st sess. (1987); *cf.* H.R. Rep. No. 100-446 (Committee of Conference), at 649, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).
[30] As adopted, the amendments to the incentive special-pay program did in fact require increased payments made during fiscal year 1988 to individual medical officers to be met out of existing funding requests made to Congress by the Department of Defense in its previous budget submissions. See National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §716(b), 101 Stat. 1019, 1113 (1987).
[31] H.R. Rep. No. 100-753 (Committee of Conference), at 405, accompanying H.R. 4264, and H.R. Rep. No. 100-989 (Committee of Conference), at 407, accompanying H.R. 4481, 100th Cong., 2d sess. (1988).
[32] The text of the provisional, uncodified medical officer retention bonus program in issue is set out as a note under 37 U.S.C. §302.

starting January 1, 1989, and ending September 30, 1989, obligating him or her to remain on active duty for at least two years following the completion of any other active-duty obligation, was eligible for a "retention bonus" of "not more than $20,000 for each year covered by the agreement." Medical officers entitled to participate in the retention bonus program had to be medical officers of the armed forces in pay grades below pay grade O-7 with at least eight years of creditable service and also had to have completed any active-duty service commitments incurred for medical education or training before October 1, 1991. In determining the amount of a retention-bonus payment in the case of a particular medical officer, the Secretary of Defense was required to "ensure that no officer receives pay under this section [i.e., the provision authorizing the medical officer retention bonus] which, when added to all other pay and allowances ... results in such officer receiving total compensation in an amount that exceeds the total compensation paid to comparable ... civilian physicians employed in the private sector in employment other than self-employment."[33] Refunds were required from medical officers who signed up for the bonus but who did not complete their committed-to active-duty service obligation.[34] An overall limitation of $30,000,000 on the obligational authority for the medical-officer retention bonus was established for fiscal year 1989. In addition to the specific provisions authorizing the retention-bonus program for medical officers generally, the Secretary of Defense was required to submit various reports to Congress, including a report "describing the manner in which the authority [for the bonus program] is to be used" and a report containing "[a]n analysis of current and projected requirements of the armed forces for health professionals by specialty and years of service," an "assessment of the adequacy of the existing compensation system for such health care professionals," and "recommendations for legislation as the Secretary considers necessary to attract and retain on active duty the health care professionals needed to meet the needs of the Armed Forces."[35]

In support of the retention bonus for medical officers, the House–Senate Conference Committee noted:

> ... The conferees recognize that the retention of health care professionals is difficult. While recognizing that compensation is not the only factor affecting retention, the conferees agree that it is a major consideration. The conference agreement directs the Secretary of Defense to submit a comprehensive report to the Committees on Armed Services of the Senate and House of Representatives evaluating the adequacy of the existing compensation package for health care professionals and any recommended changes to that structure. That report must include justification for future long-term specialty requirements, grade levels, training requirements, and levels of non-patient care physician positions....
>
> The conference agreement also requires that this long-term comprehensive report include a legislative proposal that provides for one of two approaches to an alternative compensation system for health care professionals linked to the compensation of private sector employed physicians....
>
> Further, the conferees agree that while developing an adequate health professional compensation system is the long-term solution, short-term concerns need to be addressed as well. The conference agreement, therefore, authorizes $30 million to establish a discretionary physicians' bonus to be implemented by the Secretary during fiscal year 1989.
>
> This temporary medical bonus program is to be provided to those physicians determined to be in short supply based either on specialty, years of experience, or other factors determined by the Secretary of Defense. This authority is granted only for those members who

[33] National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §612(c), 102 Stat. 1918, 1979–1980 (1988). See 37 U.S.C. §302 note.

[34] A discharge in bankruptcy entered less than five years after the termination date of an agreement was specifically provided not to discharge the refund obligation. National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §612(e), 102 Stat. 1918, 1980 (1988). See 37 U.S.C. §302 note.

[35] National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §612(g), 102 Stat. 1918, 1980–1981 (1988). See 37 U.S.C. §302 note.

> have more than eight years of creditable service, who have completed service obligations incurred as a result of education/or training, and whose total compensation currently falls below that of comparable physicians in private sector employment as determined by the Secretary of Defense. The conferees suggest that the salaries of physicians employed by Civilian Health Maintenance Organizations, or other similar organizations, may represent a good comparative benchmark. The Secretary would have authority to negotiate multi-year agreements with a minimum requirement for a two-year commitment period. The maximum bonus payable is $20,000 per year of commitment. However, the conferees generally expect that the total compensation that a military physician receives under this limited authority in any one year may not exceed a 48 percent increase in the total annual amount of variable special and additional special pays to which such a physician is entitled under [the special pays program for medical officers of the Armed Forces] during such year.[36]

In extensive comments on its proposed changes in 1989 and 1990 to the special pays for medical officers of the armed forces—which are quoted here *in extenso* because of the comprehensive background to and analysis of the problem of medical-officer retention in the armed forces—the House Committee on Armed Services noted:

> *Background*
>
> The Uniformed Services Health Professionals Special Pay Act of 1980 (Pub. L. No. 96-284) revised and updated the physician special pay system to assist in the recruitment and retention of medical officers in the Armed Forces. Coupled with the large October 1980 and October 1981 pay raises for all military personnel, the new physician special pay structure was an unqualified success in achieving that goal. Aggregate physician continuation rates climbed from 78 percent in fiscal year 1977 to 90 percent in fiscal year 1983. Improved retention, combined with increased accessions, resulted in a 29 percent increase in active duty physicians from fiscal year 1980 through fiscal year 1987.
>
> As the value of the special pays has eroded over time, retention at the end of initial obligation has gradually declined. According to Congressional Budget Office data, DoD-wide end of initial obligation retention rates have dropped from a high of 60 percent in 1983 to 37 percent in fiscal year 1988. For those beyond initial obligation, the overall retention rate has declined from 89 percent to 85 percent.
>
> The decreasing value of the medical special pays is one factor in the drop in retention rates. The committee notes that conditions of work—such as inadequate numbers of nurses and ancillary medical personnel, lack of clerical support personnel, aging facilities and equipment, and the inability to participate in continuing medical education—are of equal, and probably greater, importance.
>
> For example, far too often a military physician, after a long and busy day of seeing patients, supervising interns, and attending to a multitude of administrative or other duties, must spend several hours handwriting or typing patient medical records. Military physicians have on numerous occasions reported wheeling patients to radiology or the laboratory themselves because of the lack of a corpsman to do the job. Such conditions would be unthinkable in the civilian sector and, based on recent surveys of military doctors, are a major factor in declining physician retention rates.
>
> *Fiscal year 1989 action*

[36] H.R. Rep. No. 100-753 (Committee of Conference), at 405–6, accompanying H.R. 4264, and H.R. Rep. No. 100-989 (Committee of Conference), at 407–8, accompanying H.R. 4481, 100th Cong., 2d sess. (1988). See S. Rep. No. 100-326 (Committee on Armed Services), at 94–95, accompanying S. 2355, 100th Cong., 2d sess. (1988).

In order to stem the tide of physician losses before the problem became more serious, section 612 of the fiscal year 1989 Defense Authorization Act (Pub. L. No. 100-456) provided authority for an interim physician retention bonus for fiscal year 1989 and directed the Secretary of Defense to submit a comprehensive requirements-based analysis of military health care professionals, including the Secretary's recommendations for legislative change. The results of the reports provided by the Department have been disappointing at best. Much analysis remains to be done to satisfy the requirements of section 612(g) of Pub. L. No. 100-456.

Of particular concern is the lack of a robust objective peacetime force, disaggregated by grade or years of service and by specialty. The committee notes that it expressed dissatisfaction with the lack of similar information in its report on the special pays for health professionals in 1979, and that the situation appears to have changed very little since that time.

Unfortunately, the interim bonus authority, dubbed the Medical Officer Retention Bonus or MORB, proved to be divisive due to the way it was implemented by the Department of Defense. As submitted to Congress on November 15, 1988 the Department's plan for the MORB included a minimal bonus amount for primary care physicians—the doctors who comprise half the force and provide the bulk of the care to the beneficiary population. Subsequently, in late December primary care physicians were deleted from the program entirely. A storm of outrage ensued. The Department ultimately put the primary care physicians back in, following a congressional hearing in March. By that time, unfortunately, considerable damage had already been done.

Committee recommendation

In devising a new physician special pay plan, the committee has attempted to avoid the pitfalls and divisiveness of the MORB exercise. There currently appears to be a plethora of new medical special pay plans making their way through the corridors of the Pentagon. The committee has opted instead to restore the buying power of the current physician special pay system which has served its purpose well until its buying power began to erode in recent years.

. . .

Incentive special pay

Under the committee recommendation, the service Secretaries would, after coordination with the Secretary of Defense, be authorized to pay an incentive special pay in an amount determined by the Secretary concerned, not to exceed $20,000 per year. To be eligible for the payment, the officer would execute an agreement to remain on active duty for a period of twelve months.

The increases recommended in variable special pay, additional special pay, and board certification pay are intended to meet the need for a substantial, general increase in the level of special pay for physicians. The committee, therefore, does not intend incentive special pay to be paid to all specialty trained medical officers. Incentive special pay would instead continue to be authorized to address differential problems between specialties.

In determining the eligibility and the amount of incentive special pay, the Secretary concerned should consider specialty shortages relative to wartime requirements, retention rates affecting the Department's ability to provide cost-effective peacetime health care, and service unique needs. Officers who receive special skill enhancement training to improve their cross-utilization in a wartime shortage specialty may be paid an incentive special pay. Incentive special pay should be paid by specialty and not by obligated status, or by length of service,

> except that some distinction may be made in the amount for officers with limited experience in specialty.[37]

In a similar vein, the Committee on Armed Services, "[r]ecognizing the necessity of action now," recommended increasing the value of variable, additional, and board certification special pays "by approximately 35 percent" in order to "roughly restore the value of these special pays to the percent of total compensation they were designed to represent when the system was implemented in 1980."[38]

In conference, the House and Senate conferees, having agreed to extend the "medical officer retention bonus," changed the focus of the incentive special-pay program to compensate for the planned phase-out of the bonus over time. As noted in the House–Senate Conference Report:

> With regard to incentive special pay, the conferees capped maximum payment at $16,000 (the fiscal year1989 level) during fiscal year 1990; at $22,000 during fiscal year 1991; at $29,000 during fiscal year 1992; and at $36,000 during fiscal year 1993. Physicians receiving a medical officer retention bonus payment for service during a 12-month period will continue to be eligible for incentive special pay during that period at the rates in effect during fiscal years 1989 and 1990. When no longer eligible for a retention bonus payment, the physician will be eligible for the incentive special pay in effect at that time.
>
> Within the above constraints, the conferees intend that the incentive special pay program be managed in such a way as (1) to transition smoothly out of the medical officer retention bonus environment without significantly disadvantaging physicians who have signed bonus contracts, and (2) to avoid large reductions in total compensation for such individuals as the retention bonus payments cease. For example, the conferees expect that the incentive special pay to an obligated officer who takes the medical officer retention bonus to be regulated to ensure that there are no abrupt or marked changes in the flow of compensation to that officer at the point when medical officer retention bonus payments to that officer cease.
>
> Under these guidelines, the conferees intend that, beginning in fiscal year 1991, the amount of incentive special pay for each specialty increase by an amount sufficient to ensure that by fiscal 1993 the amount of incentive special pay plus any additional amount available for a multi-year contract ... approximates, at a minimum, the total of fiscal year 1989 incentive special pay plus an annual four year medical officer retention bonus payment. To the greatest extent possible, incentive special pay should not vary by specialty among the military Services.
>
> Any increase in incentive special pay each year for each specialty, however, is contingent on the Services' ability to justify the need for improved retention.... Requirements are to be justified based on wartime needs, cross-utilization capabilities contributing to a specialty's ability to satisfy wartime requirements, or requirements generated from a specialty's ability to provide cost-effective peacetime health care in the direct care system based on the expected population to be supported. Incentive special pay for a specialty should not increase if the retention goals for that specialty have been met in the previous fiscal year or if the inventory for that specialty exceeds 110 percent of requirements.[39]

In its consideration of authorizations for fiscal year 1991, the House Committee on Armed Services proposed a prohibition on the payment of incentive special pay during fiscal year 1991 under the provisional retention-bonus program for medical officers established by the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §612, 102 Stat. 1918, 1979–1981 (1988), as expanded and extended by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §703, 103 Stat. 1352,

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[37] H.R. Rep. No. 101-121 (Committee on Armed Services), at 285–87, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).
[38] S. Rep. No. 101-81 (Committee on Armed Services), at 178, accompanying S. 1352, 101st Cong., 1st sess. (1989).
[39] H.R. Rep. No. 101-331 (Committee of Conference), at 594–95, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

1469–1471 (1989). [See H.R. 4739, §611, 101st Cong., 2d sess. (1990).] Stating that it did "not believe that the experience to date with the medical officer retention bonus program provides the requisite support to continue a multi-year contract plan of similar design at this time," the House Armed Services Committee noted that the Department of Defense "has yet to establish physician retention goals by specialty" and went on to question "the rationale for paying all specialties incentive special pay ... for multi-year contracts."[40]

In conference, the House proposal to prohibit payments during fiscal year 1991 under the retention-bonus program for medical officers was effectively turned on its head, and a new "multiyear retention bonus" program was established to succeed the uncodified, provisional retention-bonus program for medical officers established by the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, *id*. Under the "multiyear retention bonus" program adopted in the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §611(a)(1), 104 Stat. 1485, 1576 (1990), now codified at 37 U.S.C. §301d, medical officers of the armed forces in pay grades below pay grade O-7 who enter into written agreements to remain on active duty for two, three, or four years, and who have either eight years of creditable service or who have completed any active-duty commitment they might have incurred for medical education and training, and who have completed any initial residency training before September 30 of the fiscal year in which they enter an agreement, were eligible for a "retention bonus" not to exceed $14,000 for each year of a four-year agreement, while some lesser amount, not specified in the act, was to be made available for each year of a two- or three-year agreement, "reduced to reflect the shorter service commitment." [See 37 U.S.C. §301d(a)(2).]

In connection with implementation of the "multiyear retention bonus" program, the Secretary of Defense was required to submit within 90 days after adoption of the program a report to Congress describing "the process that will be used to reassess the assignment of medical specialties to the various categories of multiyear bonuses ... and the means for ensuring that substantial changes to the total compensation of medical officers of the armed forces will be minimized." [See National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, *id*., §611(c), 104 Stat. 1577.] Medical officers of the armed forces who had entered into written agreements under the retention-bonus program for medical officers adopted by the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, *id*., were permitted to terminate those agreements in order to enter into agreements under the new "multiyear retention bonus" program. [See National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, *id*., §611(b)(1), 104 Stat. 1576–1577.] The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2568 (2002), increased the maximum annual bonus payment from $14,000 to $50,000.

In commenting on the new "multiyear retention bonus" program for medical officers of the armed forces, the House–Senate Conference Committee stated:

> Based on two years' experience with the medical officer retention bonus, the conferees are satisfied that a multi-year bonus is a cost effective approach to provide stability in managing the physician force. In conjunction with incentive special pay, a multi -year special pay can achieve desired retention goals and bring medical officer end strength by specialty more in line with requirements.
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> . . .
>
> The primary purpose of multi-year special pay is to align actual retention with desired retention. Because retention needs may vary by specialty, different levels of multi-year payment would be appropriate for different specialties. However, this desire for accuracy must be weighed against the need for simplicity. Consequently, the conferees believe that the multi-year special pay should consist of no more than three different levels. Specific specialists should not be identified directly with a level of multi- year special pay; rather, a specialty

[40] H.R. Rep. No. 101-665 (Committee on Armed Forces), at 287, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).

should be eligible to receive a particular level of multi-year special pay based on the need to meet and maintain end strength requirements for that specialty.[41]

Following these deliberations, sections 702 and 703 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §§702 and 703, 103 Stat. 1352, 1468–1471 (1989), made a number of amendments to the variable special pay, the additional special pay, the board-certification pay, and the incentive special-pay programs of 37 U.S.C. §302.

Section 702(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §§702(a), 103 Stat. 1352, 1468 (1989), as amended by the National Defense Authorization for Fiscal Year 1991, Pub. L. No. 101-510, §612, 104 Stat. 1485, 1577 (1990), established new and generally higher rates of variable special pay for medical officers of the armed forces. (See Current Rates of Special Pay for Medical Officers of the Armed Forces, below.)

With respect to additional special pay, Section 702(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, *id*., §702(b), 103 Stat. 1468 (1989), provided that all medical officers of the armed forces not undergoing medical internship or initial residency training are entitled to such pay at the rate of $15,000 per year, provided they execute the required continuation agreements. The distinction made in the original additional special-pay program between officers with less than 10 years of creditable service and those with more than 10 years of creditable service was dropped. Section 702(c) of the 1990/1991 National Defense Authorization Act, Pub. L. No. 101-189, *id*., §702(c), 103 Stat. 1468, generally increased the rates of board-certification pay. (See Current Rates of Special Pay for Medical Officers of the Armed Forces, below.)

Finally, Section 702(d) of the 1990/1991 National Defense Authorization Act, Pub. L. No. 101-189, *id*., §702(d), 103 Stat. 1468, further amended incentive special pay to provide a ceiling on such pay of $16,000 for any 12-month period beginning in fiscal year 1990, of $22,000 for any 12-month period beginning in fiscal year 1991, of $29,000 for any 12-month period beginning in fiscal year 1992, and of $36,000 for any 12-month period beginning after fiscal year 1992. The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2458 (2002), increased this ceiling to $50,000.

Although skills in the health professions were deleted from the critical-skills retention-bonus program in 2004, the National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1816 (2004), authorized an accession bonus for medical and dental officers in critically short wartime specialties. The bonus, not to exceed $400,000, requires at least a four-year commitment to active duty.

The National Defense Authorization Act for Fiscal Year 2008 increases from $50,000 to $75,000 the incentive special pay and multiyear retention bonus for medical officers in the Armed Forces.[42] Additionally, the National Defense Authorization Act for Fiscal Year 2008 established the consolidation of special pay, incentive pay, and bonus authorities under subchapter II, chapter 5 of title 37, U.S. Code. Under this subchapter, all military health care providers special pay and incentives pay authorities were consolidated under section 335, title 37, U.S. Code. Section 335, authorizes accession, affiliation, and retention bonuses as well as, health profession incentive pay and board certification incentive pay to health professions officers in both the regular or reserve components.

Under section 335, a medical officers may be paid an accession or affiliation bonus not to exceed $30,000 for each 12-month period of obligated service; a health professions retention bonus may not exceed $75,000 for each 12-month period of obligated service; a health professions incentive pay may be paid monthly but may not exceed $100,000 in any 12-month period; and board certification incentive pay up to $6,000 for a

[41] H.R. Rep. No. 101-923 (Committee of Conference), at 612, accompanying H.R. 4739, 101st Cong., 2d sess. (1990). See *id*., at 611–13, generally.

[42] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 615, 122 Stat. 3, 150 (2008).

12-month period for medical officers who remain certified in the designated health profession specialty or skill. Under section 335, title 37, U.S. code variable and additional special pays no longer exist.

The authority to pay these bonuses and incentives have been extended in one-year increments through December 31, 2016.

After September 30, 2017, all new medical bonuses and incentive pays will be administered in accordance with section 335, title 37, U.S. Code.

Current Rates of Special Pay for Medical Officers of the Armed Forces: Medical officers of the armed forces may receive as many as five different types of medical special pays in addition to any other pays and allowances to which they may otherwise be entitled: variable special pay, additional special pay, board-certification pay, incentive special pay, and multiyear retention bonus.

Variable special pay. Generally speaking, the amount of variable special pay to which a medical officer of the armed forces is entitled depends on the officer's years of creditable service, as follows:

Years of Creditable Service	Annual Variable Special Pay Entitlement
Undergoing internship	$1,200
Less than 6, not undergoing internship	$5,000
6 but less than 8	$12,000
8 but less than 10	$11,500
10 but less than 12	$11,000
12 but less than 14	$10,000
14 but less than 18	$9,000
18 but less than 22	$8,000
Over 22	$7,000

General and flag officers who are medical officers of the armed forces are entitled to $7,000 per year in variable special pay regardless of years of creditable service; medical officers undergoing medical internship training are entitled to $1,200 per year; and medical officers with less than six years of creditable service are entitled to $5,000 per year. An officer's years of creditable service include all periods spent in medical internship or residency training when the officer was not on active duty plus all the officer's years of active service as a medical officer of the armed forces. [See 37 U.S.C. §302(g).]

Additional special pay. A medical officer of the armed forces entitled to variable special pay under 37 U.S.C. §302(a)(2) or (3) who is on active duty under an active-duty agreement entered into pursuant to 37 U.S.C. §302(c) is entitled to additional special pay of $15,000 per year when not undergoing medical internship or initial residency training.

Board-certification pay. A medical officer of the armed forces entitled to variable special pay under 37 U.S.C. §302(a)(2) or (3) who is board-certified in a medical specialty is entitled to board-certification pay as follows:

Years of Creditable Service	Annual Pay for Board Certification
Less than 10	$2,500
10 but less than 12	$3,500
12 but less than 14	$4,000
14 but less than 18	$5,000
Over 18	$6,000

For the purpose of determining the amount of board-certification pay to which a particular medical officer of the armed forces is entitled, the officer's years of creditable service are computed in the same way as used in determining the officer's entitlement to variable special pay.

Incentive special pay. A medical officer of the armed forces entitled to variable special pay under 37 U.S.C. §302(a)(2) or (3) who is on active duty under an active-duty agreement executed pursuant to 37 U.S.C. §302(c) may be paid up to $75,000 per year in incentive special pay year when not undergoing medical internship or initial residency training. The National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 3 (2008), authorized a $25,000 increase to $75,000.

Multiyear retention bonus. A medical officer of the armed forces in a pay grade below pay grade O-7 who has completed initial residency training and who has at least eight years of creditable service or who has completed any active-duty service obligation incurred for medical education and training is eligible for a multiyear retention bonus of up to $75,000 for each year of a four-year active-duty service commitment or, in the case of a two- or three-year active-duty service commitment, to a lesser amount "reduced to reflect the shorter service commitment". The National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 3 (2008), authorized a $25,000 increase to $75,000.

The special-pay authority for medical officers of the armed forces is permanent under current law, with no cutoff date specified.[43]

Critical skills accession bonus for medical officers. The National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, 120 Stat. 2083 (2006), authorized a critical skills accession bonus for medical officers not to exceed $400,000.

Cost: For the cost of special pay for medical officers of the armed forces from the 1980s to 2016, see tables II-24A–F, below. For the total cost of special pay for medical officers, see table II-24G.

[43] The Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, 94 Stat. 2835 (1980), enacted on December 12, 1980, some five and one-half months after the Uniformed Services Health Professionals Special Pay Act, Pub. L. No. 96-284, 94 Stat. 587 (1980), also affected the pay of certain health professionals in the uniformed services. Section 402(a)(3) of DOPMA, *id*., §402(a)(3), 94 Stat. 2904, repealed the previously existing "constructive service credits," codified at former 37 U.S.C. §205(a)(7) and (8), with which medical and dental officers of the uniformed services were credited for the purpose of determining, among other things, their basic pay entitlements, although Section 104(a) of DOPMA, *id*., §104(a), 94 Stat. 2846–2848, effectively preserved such credits for certain other purposes, including the determination of initial grade as an officer, rank in grade, and service in grade for promotion eligibility. See new 10 U.S.C. §533, especially 10 U.S.C. §533(b)(1)(B), (C), (E), and (F), and (c); also see U.S.C. §532(b)(1). (Notwithstanding the repeal of the constructive service credit for the purpose of determining an affected officer's basic pay entitlement, however, Section 625 of DOPMA, *id*., §625, 94 Stat. 2951, enacted as a save-pay provision, preserved the credit for basic pay purposes, among others, for persons otherwise entitled to such credits on September 14, 1981, as well as for certain other classes of persons. See 10 U.S.C. §611 note for the text of Section 625 of DOPMA, *id*., §625, 94 Stat. 2951.)

Table II-24A. Variable Special Pay for Medical Officers of the Armed Forces, 1980–2016

Fiscal Year	Total Personnel	Cost ($000)
1980 (Jul–Sep)	11,620	$19,314
1981	11,559	75,082
1982	12,096	77,791
1983	12,429	80,717
1984	12,675	82,575
1985	12,898	84,582
1986	13,126	85,642
1987	13,155	85,669
1988	13,160	86,569
1989	13,619	89,505
1990	13,910	100,870
1991	15,229	116,931
1992	14,215	110,762
1993	14,126	110,202
1994	13,804	108,139
1995	13,343	104,392
1996	12,986	101,709
1997	13,044	431,798
1998	12,726	99,654
1999	12,368	95,366
2000	12,414	95,651
2001	11,905	93,397
2002	11,971	93,721
2003	13,332	105,426
2004	11,700	92,464
2005	12,033	95,062
2006	12,547	99,537
2007	12,081	95,839
2008	11,285	87,945
2009	12,121	96,339
2010	10,377	104,627
2011	12,819	102,477
2012	12,622	101,476
2013	11,526	92,502
2014	11,488	92,098
2015	11,556	88,371
2016[1]	11,602	88,671

[1] Estimate.

Table II-24B. Additional Special Pay for Medical Officers of the Armed Forces Not in Training, 1980–2016

Fiscal Year	Total Personnel	Cost ($000)
1980 (Jul–Sep)	7,338	61,610
1981	8,508	78,686
1982	8,980	83,278
1983	9,474	87,856
1984	9,605	89,212
1985	11,206	94,780
1986	9,591	92,679
1987	9,849	91,865
1988	10,028	94,183
1989	10,170	95,306
1990	10,285	154,275
1991	13,523	152,322
1992	11,081	166,215
1993	10,585	158,775
1994	10,299	154,485
1995	9,913	148,702
1996	9,838	147,570
1997	9,611	109,050
1998	9,428	141,420
1999	9,170	137,550
2000	9,214	138,110
2001	8,966	134,490
2002	9,022	135,330
2003	10,228	153,420
2004	8,851	132,765
2005	8,837	132,555
2006	8,605	129,069
2007	8,622	129,323
2008	8,330	124,944
2009	8,718	130,768
2010	8,753	131,299
2011	9,028	135,423
2012	9,435	141,530
2013	9,533	142,255
2014	9,048	135,715
2015	9,196	137,930
2016[1]	9,234	138,512

[1] Estimate.

Table II-24C. Board Certification Pay for Medical Officers of the Armed Forces, 1980–2016

Fiscal Year	Total Personnel	Cost ($000)
1980 (Jul–Sep)	3,944	2,853
1981	4,407	12,498
1982	4,801	13,006
1983	5,241	13,993
1984	5,517	14,600
1985	5,647	15,260
1986	5,767	15,231
1987	5,933	16,014
1988	5,905	16,178
1989	6,217	17,057
1990	6,406	20,699
1991	7,205	24,692
1992	6,775	24,273
1993	7,114	25,776
1994	7,261	26,312
1995	6,954	25,346
1996	7,174	25,226
1997	6,869	18,969
1998	6,758	24,174
1999	6,830	25,443
2000	7,090	25,923
2001	6,766	24,796
2002	6,823	25,807
2003	7,648	29,263
2004	6,812	25,732
2005	6,866	25,410
2006	6,284	24,129
2007	7,026	26,675
2008	9,133	24,550
2009	6,865	26,531
2010	5,596	30,118
2011	6,032	27,353
2012	6,025	27,801
2013	5,738	25,369
2014	5,572	28,139
2015	5,710	27,514
2016[1]	5,690	27,451

[1] Estimate.

Table II-24D. Incentive Special Pay for Medical Officers of the Armed Forces, 1980–2016

Fiscal Year	Total Personnel	Cost ($000)
1980 (Jul–Sep)	---	478
1981	---	10,210
1982	---	10,958
1983	---	9,269
1984	---	12,094
1985	---	10,053
1986	---	9,505
1987	---	10,683
1988	---	12,031
1989	---	34,891
1990	---	36,352
1991	---	70,287
1992	---	63,921
1993	---	105,650
1994	---	117,279
1995	---	128,884
1996	7,833	135,016
1997	7,699	104,804
1998	7,581	141,712
1999	7,499	143,285
2000	7,825	153,602
2001	7,452	147,614
2002	7,777	155,896
2003	9,749	192,856
2005	9,302	194,257
2006	8,776	189,743
2007	7,093	153,758
2008	7,719	170,110
2009	8,507	194,317
2010	8,085	195,282
2011	8,607	209,300
2012	8,001	199,301
2013	8,319	203,231
2014	8,086	196,498
2015	8,051	198,307
2016[1]	7,939	194,703

--- No data available.

[1] Estimate.

Table II-24E. Retention Bonus for Medical Officers of the Armed Forces, 1989–1993

Fiscal Year	Total Personnel	Cost ($000)
1989	2,826	30,998
1990	3,377	39,570
1991	2,960	33,251
1992	2,597	29,978
1993	290	3,251

Note: The standard retention bonus for medical officers of the armed forces was phased out beginning in the latter part of 1990, to be replaced by the multiyear retention bonus.

Table II-24F. Multiyear Retention Bonus for Medical Officers of the Armed Forces, 1991–2016

Fiscal Year	Total Personnel	Cost ($000)
1991	---	$13,723
1992	---	13,357
1993	---	26,965
1994	---	31,736
1995	---	32,942
1996	2,653	26,183
1997	3,304	33,183
1998	2,866	28,757
1999	2,957	29,766
2000	2,810	30,341
2001	3,055	31,637
2002	2,960	30,479
2003	3,377	37,142
2004	3,185	37,923
2005	3,635	44,784
2006	2,978	57,477
2007	3,675	75,738
2008	3,522	89,955
2009	4,389	105,014
2010	3,828	115,491
2011	4,483	119,314
2012	3,884	121,942
2013	4,139	125,157
2014	3,673	114,387
2015	3,613	113,369
2016[1]	3,672	115,910

--- No data available.

[1] Estimate.

Table II-24G. Total Special Pay for Medical Officers of the Armed Forces, 1980–2016

Fiscal Year	Total Personnel	Cost ($000)
1980 (Jul–Sep)	---	84,255
1981	---	176,476
1982	---	185,033
1983	---	192,549
1984	---	198,775
1985	---	201,226
1986	---	203,057
1987	---	204,231
1988	---	208,961
1989	---	267,757
1990	---	351,766
1991	---	411,206
1992	---	408,506
1993	---	430,619
1994	--	437,951
1995	---	439,862
1996	40,484	435,704
1997	40,527	697,804
1998	39,359	435,717
1999	38,824	431,410
2000	39,353	443,627
2001	38,144	431,934
2002	38,553	441,233
2003	44,334	518,107
2004	38,273	449,683
2005	40,673	492,068
2006	39,190	499,955
2007	38,497	481,333
2008	39,989	497,504
2009	40,600	552,969
2010	36,639	576,817
2011	40,969	593,867
2012	39,967	592,050
2013	39,255	588,514
2014	37,867	566,837
2015	37,988	566,116
2016[1]	38,137	565,247

--- No data available.

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.E.1.b.
Special Pay for Dentists
(Dental Officers of the Armed Forces)

Legislative Authority: 37 U.S.C. §§302b, 303a, and 303b.

Purpose: To provide an additional pay to enable the armed forces to attract and retain a sufficient number of dental officers to meet health-care needs of the services.

Background: The history of today's special-pay program for dental officers of the armed forces can be traced back to 1947. Before then, dental officers had not been entitled to special pay of any kind. Since then, there have been three different special-pay programs for dental officers. This chapter sets out the legislative history of those programs and describes how the present-day program, denominated "special pay for dental officers of the Armed Forces," came into being.[1]

Special Pay for Dental Officers

The Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, ch. 494, Pub. L. No. 80-365, §101, 61 Stat. 776, 776–77 (1947), authorized a $100 special monthly pay for regular officers who were then commissioned in the Medical or Dental Corps and for those who would be so commissioned thereafter but before September 1, 1952. The special pay was also authorized for reserve officers of the Medical or Dental Corps who, during the same period, volunteered and were accepted for extended active duty of one year or longer. The act stipulated that no officer could be paid a career total of special pay for medical or dental service in excess of $36,000. The announced purpose of the act was to assist the armed services (and the Public Health Service) in attracting and retaining an adequate number of physicians and dentists by offering the $100 monthly special pay as an inducement to continued service. However, the Senate Armed Services Committee also stated that "[a]ctually, the $36,000 additional salary which will be paid the medical and dental officer if the bill is enacted, merely compensates him for the additional expense of his education, and for the five years of lost earning power which result from his longer period of academic training."[2] In addition to providing this special pay, the act authorized original appointments in the Army or Navy Medical or Dental Corps in any permanent commissioned grade up to colonel in the Army or captain in the Navy.

In 1948 the so-called Hook Commission made a comprehensive study[3] of the military pay system and recommended that the special-pay program for physicians and dentists be continued in essentially its existing form and amount, but that it not be paid to interns. In line with the commission's recommendations, the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §203, 63 Stat. 802, 809 (1949), restated the special-pay authority and barred officers serving as medical or dental interns from entitlement. The Career Compensation Act of 1949, ch. 681, *id*., retained the September 1, 1952, cutoff date originally established in the Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, ch. 494, Pub. L. No. 80-365, §101, 61 Stat. 776, 776–77 (1947), so that the only persons who would be entitled to special pay for medical or dental service after September 1, 1952, would be officers who had initially entered on active duty before that date.[4]

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[1] For an introductory statement on special pay for health professionals generally, see the "Background" section of Chapter II.E.1.a. hereof, "Special Pay for Physicians (Medical Officers of the Armed Forces)," above.
[2] S. Rep. No. 608 (Committee on Armed Services), at 4, accompanying S. 1661, 80th Cong., 1st sess. (1947).
[3] *Career Compensation for the Uniformed Services*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948.
[4] The "cutoff" date for the special pay was not an "expiration" date; it created a bar against any new entitlement but did not terminate the special pay of any officer whose entitlement had been acquired prior to that time.

The Act of September 9, 1950, ch. 939, Pub. L. No. 81-779, §1, 64 Stat. 826, 826–27 (1950), established the so-called "doctor draft," which required males under age 50 qualified in medical, dental, or "allied specialist categories" to register under the Selective Service Act and made them subject to special induction calls.[5] It also extended the $100 special-pay entitlement to reserve medical and dental officers involuntarily ordered to active duty, as well as to those volunteering for active duty. The main purpose of this provision was to encourage draft-liable doctors and dentists to accept reserve commissions and to perform their active duty in that status rather than actually being inducted as enlisted members.

The Act of June 25, 1952, ch. 459, Pub. L. No. 82-410, §1, 66 Stat. 156, 156–57 (1952), extended the special-pay cutoff date from September 1, 1952, to July 1, 1953, and the Act of June 29, 1953, ch. 158, Pub. L. No. 83-84, §8, 67 Stat. 86, 89 (1953), further extended it to July 1, 1955. The Act of June 30, 1955, ch. 250, Pub. L. No. 84-118, §203, 69 Stat. 223, 225 (1955), extended the special-pay cutoff date once again, this time to July 1, 1959.

The Act of April 30, 1956, ch. 223, Pub. L. No. 84-497, §5, 70 Stat. 119, 122 (1956), changed the rate of special pay for dental officers from a flat rate to a graduated scale based on length of active service: $100 a month during the first two years of active service; $150 during active service years two to six; $200 during years six to 10; and $250 thereafter. It also gave dental officers a four-year constructive-service credit for promotion and pay purposes.[6] [See Act of April 30, 1956, ch. 223, *id*., §2(2), 70 Stat. 121. See also 37 U.S.C. §205(a)(7) as in effect before enactment of the Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, §402, 94 Stat. 2835, 2904 (1980).] These constructive-service credits, in combination with the higher original-appointment grade authorized by the Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, ch. 494, Pub. L. No. 80-365, §101, 61 Stat. 776, 776–77 (1947), were designed to bring about parity between officers who entered the service after a delay caused by additional dental education and training and those who entered after receiving a bachelor's degree.[7] Thus, for example, a dentist entering active duty immediately after dental school would be appointed to pay grade O-3 and entitled to the basic pay of that grade for more than four years of service. In addition, such an officer would be eligible for promotion to pay grade O-4 about three years after entering upon active duty. In other words, the pay grade, basic pay, and promotion opportunity of an affected officer would at this point be the same as they would have been had the officer entered the service after completing four years of college. The purpose of the constructive-service credit and increased special pay was to arrest and reverse the "staggering loss" of regular dental officers by providing them "a much more favorable income than that which they have heretofore experienced" and by placing them "in a somewhat more favorable position when their present income is compared with that of their counterparts serving as physicians or dentists under the civil service system or in the Veterans Administration."[8]

The Act of March 23, 1959, Pub. L. No. 86-4, §5, 73 Stat. 13 (1959), extended the special-pay cutoff date from July 1, 1959, to July 1, 1963, and the Act of April 2, 1963, Pub. L. No. 88-2, §5, 77 Stat. 4 (1963), further extended it to July 1, 1967. The Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §4, 77 Stat. 210, 212 (1963), raised the monthly rate of special pay for dental officers with between six and 10 years of active service from $200 to $250 and the rate for those with 10 or more years of active service from $250 to $350. These rate increases were added to the pay bill by the Senate Armed Services Committee, which explained its action as follows:

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[5] Veterinarians, optometrists, pharmacists, and osteopaths were specifically included in the "allied specialist categories" construct in the "Doctors Draft Act." Act of September 9, 1950, ch. 939, Pub. L. No. 81-779, §6, 64 Stat. 826, 828 (1950).

[6] The Act of April 30, 1956, ch. 223, Pub. L. No. 84-497, §5, 70 Stat. 119, 122 (1956), also provided the same benefits for physicians.

[7] See text accompanying footnote 4 to Chapter II.E.1.a. hereof, "Special Pay for Physicians (Medical Officers of the Armed Forces)."

[8] H.R. Rep. No. 1806 (Committee on Armed Services), at 2, 4, 6, accompanying H.R. 9428, 84th Cong., 2d sess. (1956).

> Prior to 1956 special pay for physicians and dentists was authorized only in the amount of an additional $100 a month. The general military pay legislation of 1955 was not sufficient to retain physicians and dentists in the necessary numbers. In 1956 Congress increased the special pay, now ranging from $100 to $250 a month, in order to meet this problem. Following the 1956 legislation the retention rate increased considerably since, in terms of compensation, a career in the Armed Forces was made more attractive for physicians and dentists and the gap between military compensation for these groups was narrowed as compared to Government physician rates (civil service and Veterans' Administration) and the incomes of private physicians. Since 1956, even including the 1958 Military Pay Act, the gap has widened between the compensation of the military physicians and those in civilian Government and those in private practice.
>
> The increase of $50 and $100 as provided in the bill, plus the increases in basic pay otherwise contained in the bill for the grades concerned, should serve to improve the now declining retention rate for those two groups.[9]

The Act of June 30, 1967, Pub. L. No. 90-40, §5, 81 Stat. 100, 105 (1967), extended the special-pay cutoff date from July 1, 1967, to July 1, 1971, and the Act of September 28, 1971, Pub. L. No. 92-129, §104, 85 Stat. 348, 355 (1971), further extended it to July 1, 1973.

The Act of July 9, 1973, Pub. L. No. 93-64, §§201–203, 87 Stat. 147, 149 (1973), extended the special-pay cutoff date from July 1, 1973, to July 1, 1975, on the grounds that

> it would be inequitable to cut off arbitrarily special pay for the health professionals in question who happen to have entered service after June 30, 1973, ... however, in all probability, the entire matter of special pays and bonuses for health professionals will be given further consideration in the not too distant future.[10]

The Act of May 6, 1974, Pub. L. No. 93-274, §2, 88 Stat. 94, 96 (1974), extended the special-pay cutoff date from July 1, 1975, to July 1, 1977. The purpose of the act was to remedy an "immediate and critical problem involving physicians," and its extension of the dentist cutoff date was not by deliberate design.

The Act of September 30, 1977, Pub. L. No. 95-114, §1, 91 Stat. 1046 (1977), further extended the cutoff date for all health professionals, including dentists, this time to September 30, 1978. The extension for physicians and dentists was approved because of "a critical need to provide extra incentives ... to recruit adequate numbers of medical personnel".[11] The cutoff dates for all health professionals were further extended by the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §801, 92 Stat. 1611, 1619 (1978), this time to September 30, 1980. As reflected in the relevant congressional report, the extension was predicated on the need to continue the existing incentives for retention of health professionals while a detailed review of the entire question of special pay for such personnel was undertaken by Congress.[12]

The Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, §4(c), 94 Stat. 587, 591 (1980), made permanent the special-pay authority for dental officers and other health professionals. As reflected in the relevant congressional reports, Congress was convinced of the need to

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[9] S. Rep. No. 387 (Committee on Armed Services), at 24–25, accompanying H.R. 5555, 88th Cong., 1st sess. (1963).
[10] S. Rep. No. 93-235 (Committee on Armed Services), at 16, accompanying S. 1916, 93d Cong., 1st sess. (1973).
[11] S. Rep. No. 95-400 (Committee on Armed Services), at 2, accompanying S. 1731, 95th Cong., 1st sess. (1977). See H.R. Rep. No. 95-479 (Committee on Armed Services), at 3–4, accompanying H.R. 8011, 95th Cong., 1st sess. (1977).
[12] H.R. Rep. No. 95-1118 (Committee on Armed Services), at 113, accompanying H.R. 10929, 95th Cong., 2d sess. (1978). See H.R. Rep. No. 95-1402 (Committee of Conference), at 52, accompanying H.R. 10929, 95th Cong., 2d sess. (1978).

restructure the existing system of special pays for health professionals other than medical officers,[13] but its attempt to do so had met with a presidential veto. In order to avoid another veto, Congress authorized the continuation of special pays for other health professionals at preexisting rates, subject to future review, but out of a desire to "alleviat[e] ... the uncertainty and concern among uniformed services health professionals that resulted from the President's veto ..., the committee included provisions ... that would make permanent the special pay authorized by current law for dentists, optometrists, and veterinarians of the military departments and for all health professionals of the commissioned corps of the Public Health Service."[14]

From the time of enactment of the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §4, 77 Stat. 210, 212 (1963), until enactment of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §639, 99 Stat. 583, 649–51 (1985), then, the rates of monthly special pay for dental officers were as follows:

Monthly Rate	Applicable To
$100	Dentists with less than two years of active dental service
$150	Dentists with between two and six years of active dental service
$250	Dentists with between six and ten years of active dental service
$350	Dentists with ten or more years of active dental service

As far as dental officers were concerned, the only change to any special-pay program affecting them between 1963 and 1985 was the implementation of a special continuation-pay program, covered immediately below.

Special Continuation Pay for Dental Officers

The Act of December 16, 1967 (Uniformed Services Pay Act of 1967), Pub. L. No. 90-207, §1(2)(A), 81 Stat. 649, 651 (1967), established a special continuation-pay entitlement for dental officers, codified at former 37 U.S.C. §311.[15] The act authorized, under regulations prescribed by the Secretary of Defense—or the Secretary of Health, Education, and Welfare (now the Secretary of Health and Human Services) for Public Health Service officers—payment of up to four months' additional basic pay for each year of an active-duty agreement accepted by the Secretary concerned from a dental officer who (1) had a critical specialty, (2) had completed any definitive active-duty obligation under law or regulation, and (3) had executed an agreement to remain on active duty for at least one additional year. Although the act authorized continuation pay for both medical and dental officers, the dental officer authority was not used until 1972. In its report on the Uniformed Services Pay Act of 1967, Pub. L. No. 90-207, *id*., the Senate Armed Services Committee made these observations with respect to continuation pay:

> The proposed continuation pay authority would be similar in form to the variable reenlistment bonus now authorized for the payment of first-term enlistees in critical skill areas.
>
> The Committee would emphasize that despite the fact that dental officers are within the scope of the authority authorizing continuation pay, it is not the intention of the Committee that this pay be made applicable to dental officers in view of the fact that the retention problem at the present time is in no way comparable to the present conditions of the Medical Corps.
>
> . . .

[13] See H.R. Rep. No. 96-904 (Committee on Armed Services), at 4, accompanying H.R. 6982, and S. Rep. No. 96-749 (Committee on Armed Services), at 2, accompanying S. 2460, 96th Cong., 2d sess. (1980).
[14] H.R. Rep. No. 96-904 (Committee on Armed Services), at 4, accompanying H.R. 6982, 96th Cong., 2d sess. (1980).
[15] Physicians were also covered by the special continuation-pay program.

> The Committee emphasizes that the proposed permissive system for continuation pay is an extraordinary method of meeting a serious retention problem. The proposed authority appears to be the best means however for dealing with a serious and deteriorating problem of the retention of certain career medical officers. The Committee observes, at the same time, however, that this system does not represent the ideal approach to the matter of military compensation and such authority should be used only in drastic situations. The Committee has therefore added language which would require annual reports from the Secretaries of Defense and Health, Education, and Welfare regarding the operation of this special pay program and the justification for its continuance.[16]

These observations, and the legislative history of the act in general, make it clear that although the income of private physicians was used for comparison purposes to determine how much, if any, extra pay was needed to counter the attraction of civilian practice and to induce military physicians to continue on active duty, the purpose of continuation pay was analogous to that of such retention incentives as the variable reenlistment bonus. The fact that the Department of Defense did not originally seek continuation-pay authority for dental officers and did not use that authority until the dentist-retention problem became acute in 1972 buttresses the supply-and-demand function of the pay.

Defense representatives had indicated during the hearings on Uniformed Services Pay Act of 1967, Pub. L. No. 90-207, *id*., that entitlement to continuation pay "could begin after the end of the first obligated tour of duty." No member of Congress expressed a contrary view. However, after the law's enactment, the Comptroller General of the United States ruled that its actual language, which authorized payment to a medical or dental officer "who has completed any other definitive active-duty obligation that he has under law or regulation," meant that any and all obligated active service must be paid back as a prerequisite for continuation pay entitlement. The Act of October 18, 1968, Pub. L. No. 90-603, 82 Stat. 1187 (1968), amended this language to make it clear that an officer, if otherwise eligible, could receive continuation pay after the completion of the initial active-duty obligation.

Before adoption of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985), Department of Defense regulations implementing former 37 U.S.C. §311 for dental officers limited eligibility for continuation pay to dental officers in pay grades O-3 through O-8. The regulations also provided that to be eligible for continuation pay a dental officer must have (1) had a critical specialty, (2) completed three or more years of service including active dental service and non-active-duty periods spent in approved dental training beyond the basic degree or in qualifying to take the appropriate certifying examination, (3) completed the initial active-duty obligation, and (4) have executed a written agreement to remain on active duty for at least one additional year. While the law provided for Secretarial discretion in paying continuation pay to officers in critical specialties, the Department of Defense as a matter of policy treated all dental specialties in all years of service classifications as "critical" for eligibility for continuation pay.[17]

As thus implemented, continuation pay could be paid in equal annual or semi-annual installments beginning on the date the dental officer started service under an additional active-duty agreement. The rates prescribed in the regulations for each year of service under an agreement were:

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[16] S. Rep. No. 808 (Committee on Armed Services), at 10–11, accompanying H.R. 13510, 90th Cong., 1st sess. (1967).
[17] At different times, Congress expressed its intent that continuation pay for dental officers be paid only to shortage specialties, and in the Act of October 12, 1984 (Continuing Appropriations, 1985), Pub. L. No. 98-473, §8091, 98 Stat. 1837, 1940 (1984), went so far as to stipulate that continuation pay be reduced by 50 percent for any dental specialty manned at 95 percent or higher of its authorized strength.

Pay Grade	Continuation Pay Entitlement
O-8	2 months' basic pay
O-7	3 months' basic pay
O-3, O-4, O-5, O-6	4 months' basic pay

The rates of monthly basic pay used in determining an affected officer's continuation pay were those in effect on April 1, 1980 [see former 37 U.S.C. §311(a)], except that any officer on active duty on September 30, 1979, who thereafter completed 20 years of active service was, for so long as remaining on active duty, entitled to receive a total amount of basic pay plus special pay under former 37 U.S.C. §311 that was not less than the sum of the basic and special pay to which the officer would have been entitled had (1) the rates of basic pay in effect on October 1, 1979, continued in effect after that date and (2) the regulations of the Secretary of Defense implementing the continuation pay program remained as they were on September 30, 1979. [See 10 U.S.C. §611 note.]

Special Pay for Dental Officers of the Armed Forces

The program for special and continuation pay for dental officers of the armed forces was substantially amended by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §639, 99 Stat. 583, 649–51 (1985). As indicated above, before enactment of the 1986 Authorization Act, dental officers received two forms of special pay: first, a "regular" special pay under the authority of former 37 U.S.C. §302b, and, second, a special "continuation pay" under the authority of former 37 U.S.C. §311. Under the amendment to the special-pay program for dental officers that was effected by the Department of Defense Authorization Act, 1986, former sections 302b and 311 of Title 37 were repealed in their entirety, and a new Section 302b, patterned after the special pay for physicians under current 37 U.S.C. §302, was adopted in their stead. The new system of special pay for dental officers of the armed forces became effective October 1, 1985.

Under the new system, three different types of special pay, none of them subject to a statutory cutoff date, were established for dental officers of the armed forces. The three types of special pay were: (1) variable special pay, codified at 37 U.S.C. §302b(a)(2); (2) additional special pay for dental officers not undergoing dental internship or residency training, codified at 37 U.S.C. §302b(a)(4); and (3) special pay for board certification, codified at 37 U.S.C. §302b(a)(5).

Under this system, variable special pay is payable to all "dental officers of the armed forces" on active duty under a call or order to active duty for a period not less than one year. Although established as an annual entitlement, variable special pay is payable to affected personnel monthly. Under the original pay schedule, general and flag officers received a flat $1,000 in variable special pay per year and persons serving an internship or having less than three years of creditable service received $1,200 per year. For others, the rates of pay ranged from $2,000 to $6,000 per year depending on years of creditable service. As established by the 1985 legislation, the rates of variable special pay for all "dental officers of the Armed Forces" other than general and flag officers and persons serving a dental internship or having fewer than three years of creditable service, were as follows:

Years of Creditable Service	Variable Special Pay
3 but less than 6	$2,000
6 but less than 8	$4,000
10 but less than 14	$6,000
14 but less than 18	$4,000
18 or more	$3,000

Additional special pay of $6,000 per year was established for all "dental officers of the Armed Forces" with at least three but less than 14 years of creditable service who were not engaged in dental internship or residency training; affected personnel with at least 14 but less than 18 years of creditable service not engaged in such training were entitled to $8,000 per year in additional special pay; and dental officers with 18 or more years of creditable service were entitled to $10,000 per year in additional special pay. Entitlement to such "additional special pay" is conditioned on an affected officer's execution of a written agreement to remain on active duty for a period not less than one year. This pay is payable annually as a lump sum at the beginning of the 12-month period for which the payment is to be made. An officer who leaves active duty before the end of the 12-month period with respect to which such a payment was made is required to refund the "unearned" portion of the payment.[18]

Special pay for board certification is available to all "dental officers of the Armed Forces" who have achieved board certification in a dental specialty. This pay is payable, on a monthly basis, in amounts that at their original levels ranged from $2,000 to $4,000 per year depending on an affected individual's years of creditable service: qualifying dental officers with less than 12 years of creditable service were entitled to $2,000 per year; those with at least 12 but less than 14 years of service, to $3,000 per year; and those with 14 or more years of service, to $4,000 per year.

In explaining the new pay program for dental officers, the House Armed Services Committee, which was responsible for it, stated:

> Under current law, military dental officers serving in a specialty designated as critical by the Secretary of Defense may be paid not more than four months basic pay (using the rates of basic pay in effect on April 1, 1980) in exchange of each additional year that they agree to continue on active duty.
>
> Dental Officer Continuation Pay has been subject to repeated criticism from the Committee on Appropriations because the services have paid continuation pay not only to shortage specialties but also to those that are fully or almost fully manned. As a result, section 839 of Pub. L. No. 98-473, making continuing appropriations for fiscal year 1985, provided that effective July 1,1985, continuation pay would be reduced by 50 percent for any dental officer in a dental specialty manned at 95 percent or higher of its authorized strength.
>
> To prevent a drastic reduction in the income of military dentists, the committee recommends replacing the current Dental Officer Continuation Pay and monthly special pay for dental officers with a new dental officer special pay program patterned on the various special pays available to medical officers.
>
> Variable special pay would be paid on a monthly basis at the rate of $1,200 per year for a dental officer undergoing internship training. For those not in internship training, the rates would vary between $2,000 and $7,000 per year depending on the years of service with the exception of officers in pay grades above O-6 who would be entitled to variable special pay at the rate of $1,000 per year. In addition, dental officers not undergoing internship or residency training would be entitled to additional special pay of from $6,000 to $10,000 per year, depending on years of service, in exchange for an agreement to remain on active duty for a period of not less than one year. Finally, dental officers who were board certified would be entitled to additional special pay at the rate of $2,000 to $4,000 per year, depending on years of service. Given the current concerns with respect to the quality of care provided in military facilities, the committee believes that board certification is an

[18] Under 37 U.S.C. §302b(f), a discharge in bankruptcy entered less than five years after the termination date of an agreement does not discharge the obligation in question.

> important professional stepping stone and, therefore, has tied this additional special pay to board certification rather than simply board qualification.
>
> An officer who voluntarily terminated service before the end of a period of service which he had agreed to serve in exchange for additional special pay would be obligated to refund to the United States an amount equal to the unserved portion of the service obligation. The committee recommends that a discharge in bankruptcy under Title 11, United States Code, would not release an individual from the obligation to reimburse the United States.
>
> The new dental special pays recommended by this section would become effective October 1, 1985. Payments under the current Dental Officer Continuation Program will be reduced for new service agreements entered into after July 1, 1985. To minimize the loss of income for affected dental officers, the committee recommends that those officers who enter into new service agreements between July 1 and September 30, 1985, be permitted to renegotiate those agreements as of October 1, 1985, for a minimum of one year's additional service under the terms of the new dental special pay program proposed by Section 634.[19]

The rates of special pay for dental officers of the armed forces proposed by the House were not agreed to by the Senate, and a House–Senate Conference Committee compromised on slightly lower rates of pay for some categories of service.[20] In addition, special transitional provisions were added in conference to make sure no dental officer suffered any loss in dental pay as a result of the adoption of the new form of dental pay.[21]

The National Defense Authorization Acts for fiscal years 1997 and 1998 each raised the rates of variable special pay for certain officer categories. After completion of the 1998 legislation, the variable special-pay rates for all dental officers had increased. The National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2545 (1996), increased the rates for dental officers in the most junior service categories, from status as a dental intern to 10 years of creditable service. After those increases, the pay range in the affected categories was from $3,000 to $7,000 per year. The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1789 (1997), altered the creditable service schedule and increased pay for all categories that had not been affected by the authorization act for the previous year. Thus, the existing creditable service category of six to 10 years became six to eight years, followed by a new category, eight to 12 years. The former category of 10 to 14 years was modified to 12 to 14 years, and the categories above 14 years remained the same. The pay range for these senior categories was from $7,000 for the six- to eight-year category to $12,000 for the eight- to 12-year category. As in the earlier version of this pay table, dental officers in the eight- to 12-year category were targeted in the new version; once past 12 years of creditable service, members' variable special pay begins to decline, reaching $8,000 at the 18-year mark.

The National Defense Authorization Act for Fiscal Year 1997 added one rate category for additional special pay for dental officers by prescribing that officers with less than three years of creditable service receive $4,000 per year of additional special pay. The National Defense Authorization Act for Fiscal Year 1998 reorganized the pay schedule for additional special pay for dental officers by establishing two categories of creditable service beyond the three-year mark, in place of the three categories that had existed

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[19] H.R. Rep. No. 99-81 (Committee on Armed Services), at 232–33, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). *Cf.* S. Rep. No. 99-118 (Committee of Conference), at 432, and H.R. Rep. No. 99-235 (Committee of Conference), at 432, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[20] See S. Rep. No. 99-118 (Committee of Conference), at 432, and H.R. Rep. No. 99-235 (Committee of Conference), at 432, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[21] See S. Rep. No. 99-118 (Committee of Conference), at 432, and H.R. Rep. No. 99-235 (Committee of Conference), at 432, accompanying S. 1160, 99th Cong., 1st sess. (1985).

previously: under that modification of 37 U.S.C.302b, dental officers with three to 10 years of creditable service receive $6,000 per year of additional special pay, and those with more than 10 years of creditable service receive $15,000 per year.

The National Defense Authorization Act for Fiscal Year 1997 increased board-certification pay for dental officers in all categories of creditable service and restructured the pay table by adding two new categories to the three that existed. Thus, instead of the categories "less than 12," "12 to 14," and "over 14," the new table made breaks at the 10-, 12-, 14-, and 18-year levels of service, establishing a total of five pay categories.

The National Defense Authorization Act for Fiscal Year 2008 increased the variable special pay under section 302b., title 37, U.S. Code from (1) $4,000 to $10,000 the maximum variable special pay for military dental officers with less than three years of creditable service; and (2) $6,000 to $12,000 the maximum variable special pay for such officers with more than three but less than ten years of creditable service.[22]

Current rates of special pay for dental officers of the Armed Forces: Dental officers of the armed forces may receive as many as three different types of dental special pays in addition to any other pays and allowances they may otherwise be entitled to—variable special pay, additional special pay, and board-certification pay.

Variable special pay. The rates of variable special pay for all dental officers of the armed forces other than general and flag officers and persons serving a dental internship or having fewer than three years of creditable service are as follows:

Annual Years of Creditable Service	Variable Special Pay
Less than 3	$7,000
3 but less than 6	$7,000
6 but less than 8	$7,000
8 but less than 12	$12,000
12 but less than 14	$10,000
14 but less than 18	$9,000
18 or more	$8,000

General and flag officers who are dental officers of the armed forces are entitled to variable special pay at the rate of $7,000 per year regardless of years of creditable service; a dental officer who has less than three years of creditable service or who is undergoing dental internship training is entitled to variable special pay at the rate of $3,000 per year. An officer's years of creditable service include all periods spent in dental internship or residency training when not on active duty plus all years of active service as a dental officer of the armed forces. [See 37 U.S.C. §302b(g).]

Additional special pay. A dental officer of the armed forces entitled to variable special pay under 37 U.S.C. §302b(a)(2) or (3) who is on active duty under an active-duty agreement entered into pursuant to 37 U.S.C. §302b(a)(4) is entitled to additional special pay when not undergoing dental internship or residency training. The National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 3 (2008), increased

[22] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 616, 122 Stat. 3, 150 (2008).

additional special pay for dental officers from $4,000 to $10,000 for those with less than three years of creditable service and from $6,000 to $12,000 for those with between three and years of creditable service. The amount for officers with more than 10 years of service remained $15,000. The additional special pay is as follows:

Years of Creditable Service	Annual Additional Special Pay Entitlement
Less than 3	$10,000
3 but less than 10	$12,000
Over 10	$15,000

For the purpose of determining the amount of additional special pay to which a particular dental officer of the armed forces is entitled, the officer's years of creditable service are computed in the same way as used in determining the officer's entitlement to variable special pay.

Board-certification pay. A dental officer of the armed forces entitled to variable special pay under 37 U.S.C. §302b(a)(5) who is board-certified in a dental specialty is entitled to board-certification pay as follows:

Years of Creditable Service	Annual Pay for Board Certification
Less than 10	$2,500
10 but less than 12	$3,500
12 but less than 14	$4,000
14 but less than 18	$5,000
Over 18	$6,000

For the purpose of determining the amount of board-certification pay to which a particular dental officer of the armed forces is entitled, the officer's years of creditable service are computed in the same way as used in determining the officer's entitlement to variable special pay.

Accession Pay and Retention Bonus. In 1996 and 1997, Congress took two courses of action to improve the supply of dentists in the armed forces and to retain dental officers qualified in certain specialties. The National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2422 (1996), added a new subsection to §302 of 37 U.S.C. That subsection, §302h, established an accession bonus for graduates of accredited dental schools who execute a written agreement to remain on active duty as officers of the armed forces for a period of not less than four years. The National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, 120 Stat. 2083 (2006), later increased the maximum amount of the bonus, technically to be determined by the relevant Secretary, from $30,000 to $150,000. The same act also authorized an accession bonus for dental specialist officers in critically short wartime specialties. That bonus may not exceed $400,000. The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1789 (1997), added a new subsection to §301 of 37 U.S.C., establishing a multiyear retention bonus similar to that in effect for medical doctors. According to the new §301e, certain officers who sign a written agreement to continue active duty for two, three, or four years after termination of at least eight years of creditable service as dental officers are eligible for a retention bonus not to exceed $14,000 per year. The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116

Stat. 2458 (2002), raised the amount to $50,000. Automatically eligible for such a bonus are dental officers specializing in oral and maxillofacial surgery; the armed forces have the option of offering such agreements to dental officers who do not possess this specialty.

The special-pay authority for all health professionals, including dental officers of the armed forces, is permanent under current law, with no cutoff date specified.[23]

On January 28, 2008, the National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 163, established the consolidation of special pay, incentive pay, and bonus authorities under subchapter II, chapter 5 of title 37, U.S. Code. Under this subchapter, all military health care providers special pay and incentives pay authorities were consolidated under section 335, title 37, U.S. Code. Section 335, authorizes accession, affiliation, and retention bonuses as well as, health profession incentive pay and board certification incentive pay to health professions officers in both the regular or reserve components.

Under section 335, a dental health care providers may be paid an accession or affiliation bonus not to exceed $30,000 for each 12-month period of obligated service; health professions retention bonus may not exceed $75,000 for each 12-month period of obligated service; health professions incentive pay may be paid monthly but may not exceed $100,000 in any 12-month period; and board certification incentive pay up to $6,000 for a 12-month period for officers who remain certified in the designated health profession specialty or skill. Under section 335, title 37, U.S. code dental variable and additional special pays no longer exist.

The authority to pay these bonuses and incentives has been extended in one-year increments through December 31, 2016.[24]

After December 30, 2016, all new dental bonuses and incentive pays will be administered in accordance with section 335, title 37, U.S. Code.

Cost: For the cost of special pays for dental officers over various years, see tables II-25A–F, below.

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[23] The Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, 94 Stat. 2835 (1980), enacted on December 12, 1980, some five and one-half months after the Uniformed Services Health Professionals Special Pay Act, Pub. L. No. 96-284, 94 Stat. 587 (1980), also affected the pay of certain health professionals in the uniformed services. Section 402(a)(3) of DOPMA, *id*., §402(a)(3), 94 Stat. 2904, repealed the previously existing "constructive service credits," codified at former 37 U.S.C. §205(a)(7) and (8), with which medical and dental officers of the uniformed services were credited for the purpose of determining, among other things, their basic-pay entitlements, although Section 104(a) of DOPMA, *id*., §104(a), 94 Stat. 2846–2848, effectively preserved such credits for certain other purposes, including the determination of initial grade as an officer, rank in grade, and service in grade for promotion eligibility. See new 10 U.S.C. §533, especially 10 U.S.C. §533(b)(1)(B), (C), (E), and (F), and (c); also see 10 U.S.C. §532(b)(1). (Notwithstanding the repeal of the constructive-service credit for the purpose of determining an affected officer's basic-pay entitlement, however, Section 625 of DOPMA, *id*., §625, 94 Stat. 2951, enacted as a save-pay provision, preserved the credit for basic-pay purposes, among others, for persons otherwise entitled to such credits on September 14, 1981, as well as for certain other classes of persons. See 10 U.S.C. §611 note for the text of Section 625 of DOPMA, *id*., §625, 94 Stat. 2951.)

[24] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 612, 129 Stat. 726, 838 (2015).

Table II-25A. Dental Officers' Special Pay, 1972–1985

Fiscal Year	Total Personnel	Cost ($000)
1972	6,016	$13,704
1973	6,164	13,737
1974	5,625	13,006
1975	5,294	12,520
1976	5,216	12,654
1977	5,084	12,405
1978	4,950	12,380
1979	4,960	12,475
1980	5,028	12,604
1981	5,029	12,854
1982	4,999	13,026
1983	5,113	13,362
1984	5,065	13,662
1985	3,493	9,411

Note: Special pay for dentists was phased out in 1985, to be replaced by a new set of special pays that became effective October 1, 1985.

Table II-25B. Dental Accession Bonus, 1997–2016

Fiscal Year	Total Personnel	Cost ($000)
1997	136	4,080
1998	177	5,420
1999	98	2,940
2000	55	1,650
2001	57	1,710
2002	34	1,020
2003	212	6,360
2004	103	3,090
2005	26	780
2006	34	1,020
2007	109	4,108
2008	96	3,618
2009	92	2,855
2010	57	2,281
2011	107	4,263
2012	43	1,419
2013	62	2,477
2014	65	2,389
2015	38	1,395
2016[1]	40	1,487

[1] Estimate.

Table II-25C. Dental Officers' Continuation Pay, 1972–1986

Fiscal Year	Total Personnel	Cost ($000)
1972	0	0
1973	2,009	11,893
1974	2,106	12,701
1975	2,099	14,127
1976	2,192	15,302
1977	---	---
1978	2,156	17,657
1979	2,156	18,632
1980	2,769	23,791
1981	2,879	24,948
1982	3,080	25,580
1983	3,373	26,742
1984	3,402	27,182
1985	3,481	28,252
1986	255	1,585

--- No data available.

Note: Special continuation pay for dentists was phased out in FY 1985, to be replaced by a new set of special pays that became effective October 1, 1985.

Table II-25D. Variable Special Pay for Dental Officers of the Armed Forces, 1986–2016

Fiscal Year	Total Personnel	Cost ($000)
1986	5,033	15,517
1987	4,988	15,840
1988	4,950	15,509
1989	4,970	15,673
1990	4,874	16,014
1991	5,008	16,109
1992	4,781	16,046
1993	4,421	15,344
1994	4,065	14,096
1995	3,788	13,290
1996	3,621	12,656
1997	3,551	16,643
1998	3,528	26,527
1999	9,540	26,649
2000	3,464	27,092
2001	3,572	26,656
2002	3,213	23,814
2003	3,585	27,506
2004	3,040	23,070
2005	3,036	23,049

Fiscal Year	Total Personnel	Cost ($000)
2006	2,864	20,862
2007	2,873	20,550
2008	2,737	18,909
2009	2,744	20,663
2010	2,468	18,491
2011	3,006	24,041
2012	2,384	20,228
2013	2,514	21,530
2014	2,426	20,805
2015	2,253	19,000
2016[1]	2,193	18,513

[1] Estimate.

Table II-25E. Additional Special Pay for Dental Officers of the Armed Forces, 1986–2016

Fiscal Year	Total Personnel	Cost ($000)
1986	3,211	22,237
1987	3,512	24,384
1988	3,557	24,889
1989	3,536	24,672
1990	3,571	24,738
1991	3,876	24,554
1992	3,466	25,046
1993	3,179	22,912
1994	3,168	22,850
1995	2,987	22,223
1996	2,873	21,574
1997	3,275	23,241
1998	3,303	34,161
1999	2,377	36,949
2000	3,251	38,343
2001	11,791	30,993
2002	2,889	30,073
2003	2,967	33,524
2004	2,527	28,466
2005	1,827	20,371
2006	2,344	23,822
2007	2,459	24,961
2008	2,311	27,323
2009	2,406	26,825
2010	2,219	25,420
2011	2,603	32,160
2012	2,152	27,658
2013	2,456	32,997
2014	2,068	28,420

Fiscal Year	Total Personnel	Cost ($000)
2015	1,785	23,553
2016[1]	1,892	26,236

[1] Estimate.

Table II-25F. Board Certification Pay for Dental Officers of the Armed Forces, 1986–2016

Fiscal Year	Total Personnel	Cost ($000)
1986	557	1,899
1987	600	2,118
1988	786	2,717
1989	801	2,769
1990	825	2,873
1991	890	3,088
1992	923	3,229
1993	997	3,646
1994	974	3,562
1995	991	3,487
1996	3,621	12,656
1997	3,551	16,643
1998	3,528	26,527
1999	9,540	26,649
2000	3,464	27,092
2001	3,572	26,656
2002	3,213	23,814
2003	3,585	27,506
2004	3,040	23,070
2005	854	4,618
2006	831	4,449
2007	826	4,349
2008	812	4,196
2009	1,336	1,336
2010	815	4,435
2011	1,034	5,762
2012	702	3,699
2013	934	4,881
2014	1,104	9,750
2015	769	4,094
2016[1]	855	4,518

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.E.1.c.
Special Pay for Veterinarians

Legislative Authority: 37 U.S.C. §§303 and 303a.

Purpose: To provide an additional pay to enable the armed forces to attract and retain a sufficient number of veterinarians to meet the needs of the services.

Background: Special pay for veterinarians derives almost serendipitously from the interaction between preexisting special-pay programs for medical and dental officers of the uniformed services and the "Doctors Draft Act," which made veterinarians subject to special induction orders along with doctors and dentists.[1]

The Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, ch. 494, Pub. L. No. 80-365, §101, 61 Stat. 776, 776–77 (1947), authorized a $100 special monthly pay for regular officers who were then commissioned in the Medical or Dental Corps and for those who would be so commissioned thereafter but before September 1, 1952. The special pay was also authorized for reserve officers of the Medical or Dental Corps who, during the applicable period, volunteered and were accepted for extended active duty of one year or longer.

The Act of September 9, 1950, ch. 939, Pub. L. No. 80-779, §1, 64 Stat. 826, 826–27 (1950), frequently referred to as the Doctors Draft Act, amended the Selective Service Act of 1948, ch. 625, Pub. L. No. 80-759, 62 Stat. 604 (1948), to require males under age 50 qualified in medical, dental, or "allied specialist categories" to register under the Selective Service Act and made them subject to special induction calls. Section 6 of the Act of September 9, 1950, ch. 939, *id*., §6, 64 Stat. 828, defined "allied specialist categories" to include, among other specialties, veterinarians.[2]

The Act of June 25, 1952, ch. 459, Pub. L. No. 82-410, §1, 66 Stat. 156, 156–57 (1952), extended the special-pay cutoff date for medical and dental officers from September 1, 1952, to July 1, 1953, thereby permitting medical and dental officers who first went on active duty after September 1, 1952, and before July 1, 1953, to receive the same special pay as medical and dental officers who first went on active duty before September 1, 1952.

The Act of June 29, 1953, ch. 158, Pub. L. No. 83-84, §8(1), 67 Stat. 86, 89 (1953), further extended the special-pay cutoff date for medical and dental officers to July 1, 1955. As a result of a provision added by the Senate Armed Services Committee, the Act of June 29, 1953, ch. 158, *id*., §8(3), 67 Stat. 89–90, made veterinary officers eligible for special pay of $100 per month on the rationale that "since the veterinarians were subject to the Doctors Draft Act, they should also receive the extra pay which is extended to physicians and dentists."[3] The cutoff date for the special-pay authorizations for medical and dental officers also applied to veterinarians.

The cutoff date for the special-pay programs for health professionals generally, including veterinarians, was subsequently extended on a number of occasions. The Act of June 30, 1955, ch. 250, Pub. L. No. 84-118, §203, 69 Stat. 223, 225 (1955), extended the special-pay cutoff date to July 1, 1959. The Act of March 23, 1959, Pub. L. No. 86-4, §5, 73 Stat. 13 (1959), extended the cutoff date from July 1, 1959, to July 1, 1963; the Act of April 2, 1963, Pub. L. No. 88-2, §5, 77 Stat. 4 (1963), extended it from

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[1] For a more complete treatment of the early history of special pay programs for medical and dental officers, see Chapters II.E.1.a. and II.E.1.b., "Special Pay for Physicians (Medical Officers of the Armed Forces)" and "Special Pay for Dentists (Dental Officers of the Armed Forces)", respectively, above. See in particular the "Background" section of Chapter II.E.1.a. hereof, "Special Pay for Physicians (Medical Officers of the Armed Forces)," for an introductory statement on special pay programs for health professionals generally, above.

[2] Also included were optometrists, pharmacists, and osteopaths. Act of September 9, 1950, ch. 939, Pub. L. No. 81-779, §6, 64 Stat. 826, 828 (1950).

[3] S. Rep. No. 305 (Committee on Armed Services), at 10, accompanying H.R. 4495, 83d Cong., 1st sess. (1953).

July 1, 1963, to July 1, 1967; the Act of June 30, 1967, Pub. L. No. 90-40, §5, 81 Stat. 100, 105 (1967), from July 1, 1967, to July 1, 1971; and the Act of September 28, 1971, Pub. L. No. 92-129, §104, 85 Stat. 348, 355 (1971), from July 1, 1971, to July 1, 1973.

The Act of July 9, 1973, Pub. L. No. 93-64, §§201–203, 87 Stat. 147, 149 (1973), again extended the special-pay cutoff date for health professionals generally, this time from July 1, 1973, to July 1, 1975, on the grounds that

> it would be inequitable to cut off arbitrarily special pay for the health professionals in question who happen to have entered service after June 30, 1973,... however, in all probability, the entire matter of special pays and bonuses for health professionals will be given further consideration in the not too distant future.[4]

The Act of May 6, 1974, Pub. L. No. 93-274, §2, 88 Stat. 94, 96 (1974), extended the cutoff date from July 1, 1975, to July 1, 1977, for medical and dental officers but not for veterinarians. The failure to extend the cutoff date for veterinarians meant that all veterinarians on active duty before July 1, 1975, were eligible for special pay but those who first entered active duty after that date were not.

The Act of September 30, 1977, Pub. L. No. 95-114, §1, 91 Stat. 1046 (1977), further extended the cutoff date for physicians and dentists, this time to September 30, 1978, and reinstituted special pay for veterinarians, at the rate of $100 a month, also subject to a cutoff date of September 30, 1978, *id*., §2(a), 91 Stat. 1046. The reinstitution of special pay for veterinarians was intended to redress the "inequitable situation" under which affected personnel who first came on active duty after July 1, 1975, were not eligible for special pay, but those on active duty before then were, and to improve retention.[5]

The cutoff dates for all health professionals were further extended by the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §801, 92 Stat. 1611, 1619 (1978), this time to September 30, 1980. As reflected in the relevant congressional report, the extension was predicated on the need to continue the existing incentives for retention of health professionals while a detailed review of the entire question of special pay for such personnel was undertaken by Congress.[6]

The Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, §4(c), 94 Stat. 587, 591 (1980), made permanent the special-pay authority for veterinarians. As reflected in the relevant congressional reports, Congress was convinced of the need to restructure the existing system of special pays for health professionals other than medical officers,[7] but its attempt to do so had met with a presidential veto. In order to avoid another veto, Congress authorized the continuation of special pays for other health professionals at preexisting rates, subject to future review, but out of a desire to "alleviat[e] ... the uncertainty and concern among uniformed services health professionals that resulted from the President's veto ..., the committee included provisions ... that would make permanent the special pay authorized by current law for dentists, optometrists, and veterinarians of the military departments and for all health professionals of the commissioned corps of the Public Health Service."[8]

Under 37 USC 303(b), a commissioned officer eligible for special pay for veterinarians is entitled to additional special pay at the same rate as is provided under Section 302c(b) for psychologists and other nonphysician health care providers. The amount is determined by years of creditable service if the officer

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[4] S. Rep. No. 93-235 (Committee on Armed Services), at 16, accompanying S. 1916, 93d Cong., 1st sess. (1973).
[5] H.R. Rep. No. 95-479 (Committee on Armed Services), at 4, accompanying H.R. 8011, 95th Cong., 1st sess. (1977). See S. Rep. No. 95-400 (Committee on Armed Services), at 3, accompanying S. 1731, 95th Cong., 1st sess. (1977).
[6] H.R. Rep. No. 95-1118 (Committee on Armed Services), at 113, accompanying H.R. 10929, 95th Cong., 2d sess. (1978). See H.R. Rep. No. 95-1402 (Committee of Conference), at 52, accompanying H.R. 10929, 95th Cong., 2d sess. (1978).
[7] See H.R. Rep. No. 96-904 (Committee on Armed Services), at 4, accompanying H.R. 6982, and S. Rep. No. 96-749 (Committee on Armed Services), at 2, accompanying S. 2460, 96th Cong., 2d sess. (1980).
[8] H.R. Rep. No. 96-904 (Committee on Armed Services), at 4, accompanying H.R. 6982, 96th Cong., 2d sess. (1980).

has been certified as a Diplomate in a specialty recognized by the American Veterinarian Medical Association. That award, paid in equal monthly amounts, is as follows:

Years of Creditable Service	Annual Payment
Less than 10	$2,000
10 to 12	$2.500
12 to 14	$3,000
14 to 18	$4,000
18 or more	$5,000

Current rate of special pay for veterinarians: An officer in the Veterinary Corps of the Army or who is designated as a veterinary officer of the Army or Air Force is entitled to the basic amount of $100 per month as special pay for veterinary service.

Cost: For the cost of veterinarian special pay from 1972 to 2016, see table II-26, below.

Table II-26. Special Pay for Veterinarians, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	916	1,099
1973	845	1,014
1974	787	944
1975	770	924
1976	721	865
1977	635	762
1978	665	798
1979	660	792
1980	633	761
1981	611	733
1982	614	737
1983	605	726
1984	477	572
1985	472	567
1986	468	562
1987	464	557
1988	482	578
1989	465	558
1990	456	547
1991	481	578
1992	455	547
1993	436	524
1994	417	499
1995	406	488
1996	403	484
1997	410	492
1998	421	505
1999	411	493

Fiscal Year	Total Personnel	Cost ($000)
2000	586	1,099
2001	732	1,373
2002	585	1,546
2003	902	1,823
2004	721	1,399
2005	530	711
2006	666	771
2007	523	647
2008	541	725
2009	543	735
2010	719	1,384
2011	887	2,149
2012	1,070	5,423
2013	1,077	5,425
2014	834	4,310
2015	396	5,113
2016[1]	974	5,018

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.E.1.d.
Special Pay for Optometrists

Legislative Authority: 37 U.S.C. §§302a and 303a.

Purpose: To provide an additional pay to enable the armed forces to attract and retain a sufficient number of optometrists to meet health-care needs of the services.

Background: The special-pay program for optometrists derives ultimately from the interaction between the preexisting special-pay programs for medical and dental officers[1] and the so-called Doctors Draft Act. Optometrists were first made eligible for special pay at the rate of $100 per month by the Act of September 28, 1971, Pub. L. No. 92-129, §202(a), 85 Stat. 348, 357–58 (1971). The act's extension of special pay to optometrists was based in part on the recommendations of the Special Subcommittee on Supplemental Service Benefits of the House Armed Service Committee. The full committee explained its action as follows:

> Of the major health professions subject to the doctor draft—medicine, dentistry, osteopathy, veterinary medicine and optometry[2]—only one, optometry, does not now qualify for special pay. Since 1966 four special induction calls have been issued for optometrists to meet the needs of the various services. The last such call was in October 1970, a calendar year in which optometrists were the only health-care professionals drafted.
>
> The inclusion of optometrists in a special pay category carries out the recommendations of the Committee's Special Subcommittee on Supplemental Service Benefits, which ... found great inconsistency in the staffing practices of the services and serious inadequacies in the eye care provided military personnel and their families in some instances. The subcommittee concluded that some of the services were understaffed with optometry officers and that improvement in the optometry staffing was necessary for improved eye care....
>
> The Committee believes that when the educational investment and earning capacity of optometrists in the public sector are taken into account the pay rates provided here [the pay rates added by the committee were considerably higher than the $100 a month actually adopted] compare justly for those provided in the law for medical and dental officers and for veterinary officers.[3]

No testimony was given by defense witnesses either in favor of or in opposition to special pay for optometrists in connection with the 1971 act. However, a few months earlier Brigadier General George J. Hayes, staff director in the office of the Assistant Secretary of Defense for Health Affairs, had stated to the Subcommittee on Supplemental Service Benefits that "at the present time we have taken the position that

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[1] For a more complete treatment of the early history of special-pay programs for medical and dental officers, see Chapters II.E.1.a. and II.E.1.b., "Special Pay for Physicians (Medical Officers of the Armed Forces)" and "Special Pay for Dentists (Dental Officers of the Armed Forces)," respectively, above. See in particular the "Background" section of Chapter II.E.1.a. hereof, "Special Pay for Physicians (Medical Officers of the Armed Forces)," for an introductory statement on special-pay programs for health professionals generally, above.

[2] Optometrists were made subject to draft by the Act of September 9, 1950, ch. 939, Pub. L. No. 81-779, §1, 64 Stat. 826, 826–27 (1950), frequently referred to as the Doctors Draft Act, which amended the Selective Service Act of 1948, ch. 625, Pub. L. No. 80-759, 62 Stat. 604 (1948), to require males under age 50 qualified in medical, dental, or "allied specialist categories" to register under the Selective Service Act and made them subject to special induction calls. Section 6 of the Act of September 9, 1950, ch. 939, *id*., §6, 64 Stat. 828, defined "allied specialist categories" to include, among other specialties, optometrists. (Also included within the "allied specialist categories" were veterinarians, pharmacists, and osteopaths. Act of September 9, 1950, ch. 939, Pub. L. No. 81-779, §6, 64 Stat. 826, 828 (1950).)

[3] H.R. Rep. No. 92-82 (Committee on Armed Services), at 19, accompanying H.R. 6531, 92d Cong., 1st sess. (1971).

special pay for optometry has not been indicated as a retention measure. Until we see that there needs to be some need for this, we would hold to this position."

As initially adopted, the special-pay program for optometrists applied to all optometrists who first came on active duty before July 1, 1973. This meant that an optometrist who was on active duty on the date of enactment of the Act of September 28, 1971, Pub. L. No. 92-129, 85 Stat. 348, 357–58 (1971), or who first came on active duty after the date of enactment but before July 1, 1973, would be entitled to the special pay indefinitely, but an optometrist who first came on active duty after June 30, 1973, would not.

The Act of July 9, 1973, Pub. L. No. 93-64, §§201–203, 87 Stat. 147, 149 (1973), extended the special-pay cutoff date for all health professionals from July 1, 1973, to July 1, 1975, on the grounds that

> it would be inequitable to cut off arbitrarily special pay for the health professionals in question who happen to have entered service after June 30, 1973,... however, in all probability, the entire matter of special pays and bonuses for health professionals will be given further consideration in the not too distant future.[4]

The Act of May 6, 1974, Pub. L. No. 93-274, §2, 88 Stat. 94, 96 (1974), extended the special-pay cutoff date from July 1, 1975, to July 1, 1977, for medical and dental officers but not for optometrists. The failure to extend the cutoff date for optometrists meant that all optometrists on active duty before July 1, 1975, were eligible for special pay but those who first entered active duty after June 30, 1975, were not.

The Act of September 30, 1977, Pub. L. No. 95-114, §1, 91 Stat. 1046 (1977), extended the cutoff date for physicians and dentists, this time to September 30, 1978, and reinstituted special pay for optometrists, at the rate of $100 a month, also subject to a cutoff date of September 30, 1978 [*id*., §2(a), 91 Stat. 1046]. The reinstitution of special pay for optometrists was intended to redress the "inequitable situation" under which affected personnel who first came on active duty after July 1, 1975, were not eligible for special pay, but those on active duty before then were, and to improve retention.[5]

The cutoff dates for all health professionals were further extended by the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §801, 92 Stat. 1611, 1619 (1978), this time to September 30, 1980. As reflected in the relevant congressional report, the extension was predicated on the need to continue the existing incentives for retention of health professionals while a detailed review of the entire question of special pay for such personnel was undertaken by Congress.[6]

The Uniformed Services Health Professionals Special Pay Act of 1980, Pub. L. No. 96-284, §4(c), 94 Stat. 587, 591 (1980), made permanent the special-pay authority for optometrists. As reflected in the relevant congressional reports, Congress was convinced of the need to restructure the existing system of special pays for health professionals other than medical officers,[7] but its attempt to do so had met with a presidential veto. In order to avoid another veto, Congress authorized the continuation of special pays for other health professionals at preexisting rates, subject to future review, but out of a desire to "alleviat[e] ... the uncertainty and concern among uniformed services health professionals that resulted from the President's veto ..., the committee included provisions ... that would make permanent the special pay authorized by current law for dentists, optometrists, and veterinarians of the military departments and for all health professionals of the commissioned corps of the Public Health Service."[8]

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[4] S. Rep. No. 93-235 (Committee on Armed Services), at 16, accompanying S. 1916, 93d Cong., 1st sess. (1973).
[5] H.R. Rep. No. 95-479 (Committee on Armed Services), at 4, accompanying H.R. 8011, 95th Cong., 1st sess. (1977). See S. Rep. No. 95-400 (Committee on Armed Services), at 3, accompanying S. 1731, 95th Cong., 1st sess. (1977).
[6] H.R. Rep. No. 95-1118 (Committee on Armed Services), at 113, accompanying H.R. 10929, 95th Cong., 2d sess. (1978). See H.R. Rep. No. 95-1402 (Committee of Conference), at 52, accompanying H.R. 10929, 95th Cong., 2d sess. (1978).
[7] See H.R. Rep. No. 96-904 (Committee on Armed Services), at 4, accompanying H.R. 6982, and S. Rep. No. 96-749 (Committee on Armed Services), at 2, accompanying S. 2460, 96th Cong., 2d sess. (1980).
[8] H.R. Rep. No. 96-904 (Committee on Armed Services), at 4, accompanying H.R. 6982, 96th Cong., 2d sess. (1980).

Under amendments to the special-pay program for optometrists made by the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §617(a), 104 Stat. 1485, 1578–1579 (1990), optometrists became eligible for a special retention bonus of up to $6,000 per year in addition to regular special pay of $100 per month. Under the retention-bonus program, an officer entitled to regular special pay as an optometrist who had completed any initial active-duty training obligation incurred for education and training, who had been determined by the Secretary of his or her military department to be qualified as an optometrist, and who executed a written agreement to remain on active duty as an optometrist for a period of not less than one year could be paid up to $6,000 for any 12-month period in which he or she was not undergoing internship or initial residency training. Pursuant to Section 617(b) of the 1991 Authorization Act, Pub. L. No. 101-510, *id.*, §617(b), 104 Stat. 1579, the Secretary of Defense was required to submit a written report to the House and Senate Armed Services Committees justifying the need to make retention-bonus payments to optometrists and setting out how the retention-bonus authority would be implemented before permitting any payments to be made to optometrists under the augmented authority. Pursuant to further provisions of the act, codified at 37 U.S.C. §302a(b)(4), the eligibility of an optometrist receiving retention special pay under 37 U.S.C. §302a(b)(1) may be terminated at any time by the Secretary of the optometrist's military department.

The special retention bonus for optometrists arose out of a proposal of the Senate Armed Services Committee to increase optometrists' special pay from $100 per month to $350 per month beginning October 1, 1991.[9] The House Armed Services Committee objected to the Senate proposal, and the retention-bonus program was agreed to in conference in place of the Senate proposal.[10] The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2458 (2002), increased the maximum annual amount of special retention pay for optometrists from $6,000 to $15,000; the eligibility requirements set out by the National Defense Authorization Act for Fiscal Year 1991 remained in effect.

Current rates of special pay for optometrists: An officer designated as an optometry officer of the Army, Navy, or Air Force, or an officer formerly designated as an optometry officer of the Army or Air Force appointed as a general officer, is entitled to $100 per month as special pay for optometry service. An officer receiving special pay for optometry service under 37 U.S.C. §302a(a) who is qualified as an optometrist, who has completed any active-duty service commitment incurred for education and training, and who is on active duty under an active-duty agreement entered into pursuant to 37 U.S.C. §302a(b)(3) may be entitled to retention special pay for optometry service of up to $15,000 per year.

Cost: For the cost of optometrist special pay from 1972 to 2016, see table II-27, below.

Table II-27. Special Pay for Optometrists, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	592	583
1973	572	686
1974	536	647
1975	520	624
1976	521	626
1977	374	448
1978	479	575
1979	477	572
1980	473	567

[9] S. 2884, §612, 101st Cong., 2d sess. (1990). See S. Rep. No. 101-384 (Committee on Armed Services), at 172, accompanying S. 2884, 101st Cong., 2d sess. (1990).
[10] H.R. Rep. No. 101-923 (Committee of Conference), at 614–15, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).

Fiscal Year	Total Personnel	Cost ($000)
1981	481	578
1982	530	636
1983	571	685
1984	573	688
1985	537	645
1986	499	599
1987	507	609
1988	513	616
1989	471	565
1990	478	573
1991	589	706
1992	480	576
1993	478	573
1994	477	645
1995	443	532
1996	446	535
1997	417	501
1998	420	504
1999	386	464
2000	390	469
2001	417	500
2002	735	1,352
2003	619	2,388
2004	656	1,992
2005	443	623
2006	432	566
2007	363	763
2008	583	1,685
2009	553	1,494
2010	559	2,002
2011	695	2,649
2012	822	3,107
2013	919	3,403
2014	1,832	7,450
2015	934	3,265
2016[1]	854	3,055

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.E.1.e.
Special Pay for Psychologists, Pharmacists, and Other Nonphysician Health Care Providers

Legislative Authority: 37 U.S.C. §302c.[1], §302i, §302j, and §335

Purpose: To provide a special incentive for highly qualified psychologists, pharmacists, and other nonphysician health care providers to enter and remain in military service, in part to overcome a perceived shortage of personnel with such qualifications in the armed forces and in part to relieve demands for even more hard-to-recruit-and-retain medical specialists, including psychiatrists, among others.

Background: Special pay for psychologists was first authorized in the Public Health Service by the Act of October 26, 1987, Pub. L. No. 100-140, §2(a), 101 Stat. 830, 830–31 (1987), and was extended to psychologists in the Army, the Navy, and the Air Force by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §704(a), 103 Stat. 1352, 1471 (1989), subject to justification by the Secretary of Defense of the need for such pay to the House and Senate Committees on Armed Services. Subject to this justification, the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, *id*., extended entitlement to special pay for psychologists to members of the Army, Navy, and Air Force who have been designated by their respective services as psychologists and have been board-certified in psychology—in the words of the governing statute, to a member of the Army, Navy, or Air Force who has been "designated as a psychologist ... and ... been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology." To qualify for the special pay, members of the Army and Navy must be members of the Medical Service Corps of their respective services and members of the Air Force must be biomedical services officers. Extension of special pay to psychologists was first proposed in 1986. At that time, approximately one year before Congress in fact authorized special pay for psychologists in the Public Health Service in the Act of October 26, 1987, Pub. L. No. 100-140, *id*., the Senate Committee on Armed Services, in deliberations on the 1987 Senate defense authorization bill,[2] proposed authorizing special pay for military psychologists out of

> ... concern that the Department of Defense and the military departments continue to resist the full utilization of non-physician providers in providing health care services, especially at this time when there are substantial shortages of physicians in all components of the armed forces. The committee also notes that continued practice of requiring physicians to perform many functions which can legally, ethically, and actually be performed by nonphysician providers creates unnecessary demand for physician services and produces low morale among non-physician providers.
>
> This problem is especially acute with respect to the utilization of psychologists by the armed forces. In order to attempt to bring about a rethinking of this problem, while at the same time encouraging well qualified psychologists to enter and remain on active duty, the committee recommends the creation of a special pay for the most highly qualified psychologists.
>
> . . .

[1] The catchline for Section 302c, Title 37, United States Code, reads "Special pay: Psychologists and nonphysician health care providers." The legislative history of Section 302c is inconsistent with respect to the spelling of the word, "nonphysician," sometimes spelling it "nonphysician" and sometimes spelling it "non-physician." The current chapter title adopts the spelling, "nonphysician," inasmuch as that is the spelling set out in the catchline to Section 302c, Title 37, United States Code. In quoting from relevant House and Senate reports, however, the current chapter preserves the spelling adopted in those reports.

[2] S. 2638, 99th Cong., 2d sess. (1986).

> ... [T]he committee intends that this pay be viewed as an indication of its support for the greater utilization of well qualified psychologists by the Armed Forces and that more well qualified psychologists be recruited and retained to perform many of the functions now being performed by psychiatrists in the military medical services.[3]

Notwithstanding the Senate's justification of special pay for military psychologists, the House–Senate Conference Committee rejected the proposal, noting, however:

> The conferees note their displeasure with the continued failure of the Department of Defense to expand the use of non-physician [health services] providers. The conferees believe that non-physician providers like psychologists are a cost-effective way to significantly extend the capability of the Department of Defense to provide care to its beneficiary population. The conferees serve notice that, if the Department of Defense does not implement a plan for expanded use of non-physician providers, they intend to mandate such an expansion in the future.
>
> Although the conferees are very sympathetic to the intent of the Senate special pay provision and believe that tying such special pay to a board certification requirement is an innovative way to encourage non-physician providers to enhance their professional credentials, they believe that the issue requires further study and have, therefore, deferred acceptance of the Senate provision.[4]

The same concerns expressed by the Senate Armed Services Committee and the House–Senate Conference Committee in 1986 evidently lay behind adoption of the Act of October 26, 1987, Pub. L. No. 100-140, *id*., which, as above noted, extended special pay to psychologists in the Public Health Service. The fact is, however, neither the Senate nor the House of Representatives ever formally expressed their reasons for adopting special pay for psychologists in 1987, as no report was ever issued on S. 1666, 100th Cong., 1st sess. (1987), the bill that, upon enactment, became the Act of October 26, 1987, Pub. L. No. 100-140, *id*.

Extension of special pay for psychologists to psychologists in the Army, Navy, and Air Force resulted from a floor amendment made by Senator Inouye to the Senate's 1990/1991 defense authorization bill, S. 1352, 101st Cong., 1st sess. (1989). In support of his amendment, Senator Inouye essentially justified special pay for military psychologists on the grounds that there was a shortage of military psychologists and a retention incentive was needed to keep qualified psychologists in the armed forces:

> Mr. President, this amendment addresses the need for a pay bonus for military psychologists. Board certified physicians in the military receive an annual pay bonus currently ranging from $2,000 to $5,000, depending on their years of service, while board certified psychologists are not eligible for the pay bonus. My amendment would authorize the Department of Defense to pay board certified psychologists the same bonuses as those received by physicians.
>
> To become a board certified psychologist requires extensive supervised training and passing a difficult national examination. Obviously, a board certified psychologist possesses impressive credentials.
>
> There is a shortage of psychologists in the military, and my amendment would provide a cost-effective retention tool—one that we should adopt.[5]

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[3] S. Rep. No. 99-331 (Committee on Armed Services), at 233–34, accompanying S. 2638, 99th Cong., 2d sess. (1986).
[4] H.R. Rep. No. 99-1001 (Committee of Conference), at 483, accompanying S. 2638, 99th Cong., 2d sess. (1986).
[5] 135 Cong. Rec. S8758 (daily ed. July 26, 1989) (statement of Senator Inouye).

In commenting on Senator Inouye's floor amendment, the House–Senate conferees merely noted that it had accepted

> ... an amendment that would authorize the Secretary of Defense, at his discretion, to pay board certification pay to eligible military psychologists after the Secretary submits a report to the Committees on Armed Services of the Senate and House of Representatives justifying the need for this pay and describing the way in which the authority will be implemented.[6]

The National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §618(a), 104 Stat. 1485, 1579 (1990), further extended the special pay, this time to "nonphysician health care providers" who are officers in the Medical Service Corps of either the Army or the Navy or biomedical sciences officers in the Air Force, who are "health care provider[s] (other than ... psychologist[s])," who have "postbaccalaureate" degrees, and who are board-certified. This extension resulted from a Senate proposal that would have extended the special pay program for psychologists to podiatrists, but only to podiatrists. In commenting on, and going beyond, the Senate proposal, the House–Senate Conference Committee noted:

> The [Senate] amendment would broaden the authority granted last year for board certification pay for psychologists to allow the Secretary of Defense to implement board certification special pays for nonphysician health care providers with a post-baccalaureate professional degree. The amendment would also require the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives, each time the Secretary decides to implement such pay, justification for the need for such pay and a description of how such pay will be implemented.[7]

The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §611, 106 Stat. 2315, 2420–2421 (1992), again extended the definition of "nonphysician health care providers," this time to include chiropractors within the class of persons authorized special pay under 37 U.S.C. §302c.[8] [9] Similarly, nurses were included within the category of "nonphysician health care providers" by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §617[10], 110 Stat. 186, 362 (1996),

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[6] H.R. Rep. No. 101-331 (Committee of Conference), at 595, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

[7] H.R. Rep. No. 101-923 (Committee of Conference), at 615, accompanying H.R. 4739, 101st Cong., 2d sess. (1990). *Cf.* S. Rep. No. 101-384 (Committee on Armed Services), at 172, accompanying S. 2884, 101st Cong., 2d sess. (1990) ("The committee recommends a provision ... that would authorize special pay for podiatrists.").

[8] H.R. Rep. No. 102-527 (Committee on Armed Services), at 243, accompanying H.R. 5006, 102d Cong., 2d sess. (1992); *cf.* H.R. Rep. No. 102-966 (Committee of Conference), at 713, accompanying H.R. 5006, 102d Cong., 2d sess. (1992).

[9] A companion provision of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §505, 106 Stat. 2315, 2404 (1992), authorized chiropractors to be appointed as commissioned officers in the Army (the Army Medical Specialist Corps), the Navy (the Medical Service Corps of the Navy), and the Air Force (as biomedical science officers).

[10] The catchline for Section 617 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, *id.*, read "Clarification of Authority to Provide Special Pay for Nurses." Also see the catchlines introducing discussion of the provision in the relevant Senate and House reports: S. Rep. No. 104-112 (Committee on Armed Services), at 255, accompanying S. 1026, 104th Cong., 1st sess. (1995); H.R. Rep. No. 104-406 (Committee of Conference), at 816, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); and H.R. Rep. No. 104-406 (Committee of Conference), at 806, accompanying S. 1124, 104th Cong., 2d sess. (1996).

with the result that board-certified nurses with postbaccalaureate degrees who are health-care providers are also entitled to special pay under 37 U.S.C. §302c.[11] [12]

Current rates of pay authorized for psychologists and other nonphysician health care providers are as follows:

Years of Creditable Service	Special Pay Authorized
Less than 10	$2,000
10 but less than 12	$2,500
12 but less than 14	$3,000
14 but less than 18	$4,000
18 or more	$5,000

Note: Creditable service is computed by adding all periods spent in internship or residency training while not on active duty to all periods of active duty as a health-care provider.

The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-154 (2000), added a new category of health-related special pay, for pharmacists, for which the law created two new subsections of 37 U.S.C., §302i and §302j. In recommending such pay, the Senate Armed Services Committee referred to a perceived need for more pharmacy officers in the military:

> The recommended provision would provide the military departments … additional incentives to recruit and retain pharmacy officers.[13]

The new special pay applied to pharmacy officers at grade O-6 and below of the Medical Service Corps of the Army and Navy and in the Biomedical Sciences Corps of the Air Force. The same legislation provided for the payment of an accession bonus, not to exceed $30,000, for qualified pharmacists who executed a written agreement to accept a commission in the armed forces and to remain on active duty for at least four years. The duty assignments of such members were as a pharmacy officer in the Medical Service Corps of the Army or Navy or as a biomedical services officer in the Air Force. The pay schedule prescribed by the authorization act of 2001 was as follows:

Years of Creditable Service	Pay Authorized
Less than 3	$3,000
3 but less than 6	$7,000
6 but less than 8	$7,000
8 but less than 12	$12,000
12 but less than 14	$10,000
14 but less than 18	$9,000
more than 18	$8,000

[11] See S. Rep. No. 104-112 (Committee on Armed Services), at 255, accompanying S. 1026, 104th Cong., 1st sess. (1995) ("The committee recommends a provision that would add military nurses to the health care professionals who may receive a special pay for being board certified in their specialty."). *Cf.* H.R. Rep. No. 104-406 (Committee of Conference), at 816, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-406 (Committee of Conference), at 806, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[12] For other special pays to which nurses may be entitled, see Chapter II.E.1.f. hereof, "Special Pay for Nurse Anesthetists and Other Nurses and Accession Bonus for Registered Nurses," below.

[13] S. Rep. No. 106-616 (Committee on Armed Services), accompanying S. 2549, 106th Cong., 2d sess.

The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2569 (2002), redesignated special pay for pharmacist officers as retention special pay for pharmacist officers and prescribed a maximum yearly payment of $15,000 for all recipients in place of the pay schedule established in 2001.

On January 28, 2008, the National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 163, established the consolidation of special pay, incentive pay, and bonus authorities under subchapter II, chapter 5 of title 37, U.S. Code. Under this subchapter, special pay for psychologists, pharmacists, and other non-physician health care providers is incorporated under the special bonus and incentive pay authorities for officer in a health profession in section 335, title 37, U.S. Code. Section 335, authorizes accession, affiliation, and retention bonuses as well as, health profession incentive pay and board certification incentive pay to health professions officers in both the regular or reserve components.

Under section 335, non-physician health care providers may be paid an accession or affiliation bonus not to exceed $30,000 for each 12-month period of obligated service; health professions retention bonus may not exceed $75,000 for each 12-month period of obligated service; health professions incentive pay may be paid monthly but may not exceed $15,000 in any 12-month period; and board certification incentive pay is up to $6,000 for a 12-month period for officers who remain certified in the designated health profession specialty or skill.

The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 extended the designation of critically short wartime health specialties to include licensed psychologists and provides an accession bonus of no more than $400,000. It also created section 302c-1., Special pay: accession and retention bonuses for psychologists, authorizing both an accession and multiyear retention bonus for licensed psychologists. The maximum bonus amount for the accession bonus is $400,000 and $25,000 per year for the retention bonus.[14]

The authority to pay these bonuses and incentives in accordance with section 335, title 37, U.S. Code, have been extended in one-year increments through December 31, 2016.[15]

After December 30, 2016, all new health profession special and incentive pays will be administered in accordance with section 335, title 37, U.S. Code.

Cost: For the cost of special pay for psychologists and nonphysician health care providers from 1995 to 2016, see table II-28, below.

Table II-28. Special Pay for Psychologists and Non-physician Health Care Providers, 1995–2016

Fiscal Year	Total Officers	Cost ($000)
1995	289	$667
1996	171	548
1997	744	1,834
1998	878	2,210
1999	1,156	2,849
2000	1,209	3,107
2001	1,729	4,444
2002	1,590	4,099
2003	1,624	4,675

[14] Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, Title VI, Subtitle B, Sec. 620, 122 Stat. 4356, 4490-4491 (2008).
[15] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 612, 129 Stat. 726, 838 (2015).

Fiscal Year	Total Officers	Cost ($000)
2004	1,289	4,330
2005	1,171	2,864
2006	1,368	3,347
2007	2,458	6,199
2008	2,927	7,532
2009	2,592	9,765
2010	4,657	19,547
2011	1,711	9,480
2012	1,727	10,449
2013	2,411	12,782
2014	1,956	9,620
2015	1,532	9,222
2016[1]	1,977	10,438

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.E.1.f.
Special Pay for Nurse Anesthetists and Other Nurses and Accession Bonus for Registered Nurses

Legislative Authority: 37 U.S.C. §§302d and 302e; *cf.* 37 U.S.C. §302c(d).[1]

Purpose: To provide a special incentive for nurses to enter and remain in military service to ensure adequate numbers of experienced nurses to meet military medical-care needs in both peacetime and wartime settings.

Background: The National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §§705 and 706, 103 Stat. 1352, 1471–1474 (1989), established two new programs to overcome shortages of nurses generally and of certified registered nurse anesthetists (CRNAs) in particular. Both programs were initially established as two-year test programs. Under the first of the programs, adopted as Section 705(a)(1) of the 1990/1991 National Defense Authorization Act, *id*., §705(a)(1), 103 Stat. 1471–1472, a registered nurse who, during the period beginning November 29, 1989, and ending on September 30, 1991, executed a written agreement to accept a commission and be assigned to duty as an officer of the Nurse Corps of the Army or Navy or an officer of the Air Force designated as a nurse and to remain on active duty for a minimum of four years became entitled to an "accession bonus" not to exceed $5,000.[2] All registered nurses were eligible to participate in the "accession bonus" program except nurses who received financial assistance from the Department of Defense to pursue baccalaureate degree programs in exchange for agreements to accept appointments as officers and persons determined not to be qualified to become and remain licensed as registered nurses. The exact amount of the bonus was left to the determination of the Secretaries of the military services, depending on the needs of each service. The nurse "accession bonus" is codified at 37 U.S.C. §302d.[3]

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[1] In addition to being entitled to special pay under 37 U.S.C. §§302d and 302e as nurses *per se*, nurses may also be entitled to special pay as "nonphysician health care providers" under 37 U.S.C. §302c(d). See footnotes 19 and 20 and accompanying text to this chapter, below. Also see footnote 3 hereof, below.

[2] The program was also available to registered nurses executing written agreements under which they agreed to accept commissions as officers designated as nurses in the commissioned corps of the Public Health Service. See 10 U.S.C. §302d(c).

[3] The National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §707, 103 Stat. 1352, 1474–1475 (1989), also established a financial assistance program, codified at 10 U.S.C. §2130a, for nurse officer candidates. The reason underlying adoption of the financial-assistance program was the perceived "shortfalls in [the number of] professional nurses [that] now exist in both the active and reserve forces" that could adversely affect the "military medical care system's ability to perform both its wartime and peacetime missions." See H.R. Rep. No. 101-121 (Committee on Armed Services), at 289, accompanying H.R. 2461, 101st Cong., 1st sess. (1989); S. Rep. No. 101-81 (Committee on Armed Services), at 179, accompanying S. 1352, 101st Cong., 1st sess. (1989); and H.R. Rep. No. 101-331 (Committee of Conference), at 595, accompanying H.R. 2461, 101st Cong., 1st sess. (1989). Under the initial funding levels of this program, a person who executes a "written agreement" to accept an appointment as a nurse officer could be paid up to $5,000 upon acceptance of the agreement, provided that the first installment could not exceed $2,500, and a stipend of up to $500 per month, for a maximum of 24 months, for each month the person is "enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution...." The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2569, raised the limit of the total amount paid upon acceptance from $5,000 to $10,000 and the limit of the initial payment from $2,500 to $5,000. Under the "written agreement," an officer candidate is obligated to enlist in a reserve component of an armed force, to complete the nursing program, to accept appointment as a nurse officer upon completion of the program, and to serve on active duty as a nurse officer for either four or five years (four years in the case of a person whose agreement was accepted in that person's fourth year in a nursing program, five years in the case of a person whose agreement was accepted in that person's third year in a nursing program). As originally enacted, the financial assistance program was scheduled to terminate on September 30, 1991, but the program has since been extended a number of times—first, to September 30, 1992, by the National Defense Authorization Act for Fiscal Year

In commenting on the need for an "accession bonus" for nurses, the House Armed Services Committee noted:

> The committee is aware that shortfalls in professional nurses now exist in both the active and reserve forces that, if not corrected, will have a major effect on the military medical care system's ability to perform both its wartime and peacetime missions. These shortfalls are the result, in part, of the national nursing shortage, the existence of which forces the military nurse corps to compete more effectively than ever before for the available supply of civilian sector nurses.
>
> The committee is especially concerned about the military services' failure to attain recruitment goals for nurses. Since fiscal year 1988 none of the services has been able to recruit sufficient numbers and types of nurses to fully perform mission requirements. Although health care research identifies numerous reasons for this phenomenon, the lack of adequate monetary incentives stands out as a major obstacle to the recruitment of military nurses.[4]

Under the second of the programs, adopted as Section 706(a)(1) of the 1990/1991 National Defense Authorization Act, Pub. L. No. 101-189, *id*., §706(a)(1), 103 Stat. 1472–1473, an officer of the Nurse Corps of the Army or Navy or an officer of the Air Force designated as a nurse who was a qualified certified registered nurse anesthetist on active duty for a period of not less than one year and who, during the period beginning November 29, 1989, and ending on September 30, 1991, executed a written agreement to remain on active duty for a minimum of one year or more became entitled to "incentive special pay" not to exceed $6,000 per year.[5] The exact amount of the bonus was left to the determination of the Secretaries of the military services, depending on the needs of each service and the period of obligated service provided for in the written agreement. Incentive special pay for nurse anesthetists is codified at 37 U.S.C. §302e.

With respect to the special incentive pay for certified registered nurse anesthetists, the House Armed Services Committee was clearly concerned about staffing shortages:

> The committee is deeply concerned about the nation's wartime medical readiness, and believes that the level and adequacy of in-theater casualty care is directly related to the availability of highly skilled health care professionals. Critical among these are nurses, and specifically, certified registered nurse anesthetists (CRNAs).
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> . . .

1991, Pub. L. No. 101-510, §613(c)(1), 104 Stat. 1485, 1577 (1990), and the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §612(c)(1), 105 Stat. 1290, 1376 (1991); second, to September 30, 1993, by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §162(h), 106 Stat. 2315, 2421 (1992); third, to September 30, 1995, by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §611(a), 107 Stat. 1547, 1679 (1993); fourth, to September 30, 1996, by the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §612(a), 108 Stat. 2663, 2783 (1994); to September 30, 1997, by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §612(a), 110 Stat. 186, 359 (1996); and through December 31, 2004, by the successive annual authorization legislation for each of the intervening years, the most recent of which was the National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136. The reasons for the different extensions of the financial assistance program parallel those for extending the special pay programs for nurses, for which see below in this chapter.

[4] H.R. Rep. No. 101-121 (Committee on Armed Services), at 289, accompanying H.R. 2461, 101st Cong., 1st sess. (1989). *Cf. id*., at 288–89, generally. Also see S. Rep. No. 101-81 (Committee on Armed Services), at 178, accompanying S. 1352, 101st Cong., 1st sess. (1989) ("The committee remains concerned about maintaining adequate staffing levels of nurses in the military medical care system.").

[5] The program was also available to registered nurses executing written agreements under which they agreed to accept commissions as officers designated as nurses in the commissioned corps of the Public Health Service. See 37 U.S.C. §302e(b)(1).

> Since 1983 the number of programs available [for CRNAs] and the number of graduates in the civilian sector has declined. Likewise, the military nurse corps have experienced great difficulty in achieving recruiting goals. Despite the strengthening of in-service recruiting for specialty training, nurse anesthesia manpower shortages have been critical across the services since fiscal year 1988, with an average of 35 percent of all military treatment facilities undermanned....
>
> The CRNA shortage is further exacerbated by the exodus of experienced military nurse anesthetists to the private sector, where, on average, they can earn salaries in excess of $35,000 above their military compensation....[6]

On the basis of experience with the nurse accession bonus and the incentive special pay for certified registered nurse anesthetists, Congress extended the termination date for both programs from September 30, 1991, to September 30, 1992, in the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §613(a) (accession bonus for registered nurses) and §612(b) (special pay for nurse anesthetists), 104 Stat. 1485, 1577 (1990). At the same time, Congress amended 37 U.S.C. §302e to authorize special incentive pay for nursing specialties in addition to nurse anesthetists that are "designated by the Secretary [of Defense] as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements)." [See National Defense Authorization Act for Fiscal Year 1991, *id*., §614(a)(3), 104 Stat. 1577.] Nursing specialties included in the expanded incentive special-pay program were limited to specialties that require "post-baccalaureate education and training." [See 37 U.S.C. §302e(b)(2)(B).] Before including any nursing specialty in the expanded incentive special-pay program, the Secretary of Defense is required to submit a report to Congress justifying the need for inclusion of that specialty and describing how the program will be implemented for that specialty. [See National Defense Authorization Act for Fiscal Year 1991, *id*., §614(c), 104 Stat. 1578; 37 U.S.C. §302e note.] No nursing specialties were "designated ... as critical" under the expanded authority conferred by the 1991 National Defense Authorization Act, Pub. L. No. 101-510, §612(b), *id*., and certified registered nurse anesthetists remained the only nursing specialty authorized to receive incentive special pay under 37 U.S.C. §302e.

Extension of authority for incentive special pay to nursing specialties in addition to nurse anesthetists came about as a result of a Senate proposal to extend the incentive special pay for nurse anesthetists to certified nurse-midwives and intensive-care nurses.[7] In conference, the Senate proposal was broadened "to allow the Secretary of Defense to prescribe this incentive special pay for any other nursing

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[6] H.R. Rep. No. 101-121 (Committee on Armed Services), at 289–90, accompanying H.R. 2461, 101st Cong., 1st sess. (1989). Also see S. Rep. No. 101-81 (Committee on Armed Services), at 179, accompanying S. 1352, 101st Cong., 1st sess. (1989):

> The committee is aware that the Department of Defense is experiencing difficulty attracting and retaining qualified certified registered nurse anesthetists (CRNAs). In order to compete for these individuals and in recognition of their additional specialty training, the committee recommends ... a provision ... authorizing incentive pay of up to $6,000 per year for nurse anesthetists. The secretary of the military department concerned may, upon acceptance of the written agreement, pay an incentive pay to an eligible individual in an amount that shall not exceed
>
> $6,000 per year for obligated individuals
> $15,000 per year for unobligated individuals who sign a one-year contract
> $20,000 per year for unobligated individuals who sign a two-year contract
> $25,000 per year for unobligated individuals who sign a three-year contract.

[7] S. 2884, §613, 101st Cong., 2d sess. (1990). See S. Rep. No. 101-384 (Committee on Armed Services), at 172, accompanying S. 2884, and H.R. Rep. No. 101-923 (Committee of Conference), at 614, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).

specialty that requires post-baccalaureate education and training for which there is a critical shortage based on wartime or peacetime requirements."[8]

Since first extending the termination dates for both programs to September 30, 1992, in the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, 104 Stat. 1485 (1990), Congress has further extended the termination date on four occasions—first, in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §612(g) (accession bonus for registered nurses) and §612(i) (special pay for nurse anesthetists and other critical nursing specialties), 106 Stat. 2315, 2421 (1992), the termination dates for both programs were extended from September 30, 1992, to September 30, 1993; second, in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §611(b) (accession bonus for registered nurses) and §611(c) (special pay for nurse anesthetists and other critical nursing specialties), 107 Stat 1547, 1669 (1993), the termination dates were extended from September 30, 1993, to September 30, 1995; third, in the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §612(b) (accession bonus for registered nurses) and §612(c)(1) (special pay for nurse anesthetists and other critical nursing specialties), 108 Stat. 2663, 2783 (1994), the termination dates were further extended from September 30, 1995, to September 30, 1996; in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §612(b) (accession bonus for registered nurses) and §612(c) (special pay for nurse anesthetists and other critical nursing specialties), 110 Stat. 186, 359 (1996), and the termination dates were further extended from September 30, 1996, to September 30, 1997; finally, the termination dates were extended through December 31, 2004, by the successive annual authorization legislation for each of the intervening years, the most recent of which was the National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136.

In support of the extension of the termination dates for both programs from September 30, 1992, to September 30, 1993, the House and Senate Armed Services Committees contented themselves merely with indicating that they "recommend[ed]" the extensions in question.[9] With respect to the additional extension from September 30, 1993, to September 30, 1995, the House Armed Services Committee reported out a bill, H.R. 2401, 103d Cong., 1st sess. (1993), that provided permanent authority for incentive special pay for nurse anesthetists and other critical nursing specialties and accession bonuses for registered nurses, thereby doing away with the termination dates that had to be extended from year to year.[10] The Senate bill, S. 1298, §612, 103d Cong., 1st sess. (1993), however, merely provided for extending the termination date from September 30, 1993, to September 30, 1994.[11] The Senate proposal was adopted in conference.[12] In connection with the extension of the termination dates from September 30, 1995, to September 30, 1996, the Senate Armed Services Committee proposed increasing the incentive special pay for nurse anesthetists and other critical nursing specialties from a maximum of $6,000 per year to $15,000 per year while at the same time extending the program termination dates for both the incentive special pay and the accession bonus for registered nurses to September 30, 1998,[13] while the bill reported out by the House Armed Services Committee provided merely for increasing the incentive special pay for nurse anesthetists and other critical nursing specialties from a maximum of $6,000 per year to $15,000.[14] In support of its proposal

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[8] H.R. Rep. No. 101-923 (Committee of Conference), at 614, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).
[9] H.R. Rep. No. 102-527 (Committee on Armed Services), at 244, accompanying H.R. 5006; and S. Rep. No. 102-352 (Committee on Armed Services), at 208, accompanying S. 3114, 102d Cong., 2d sess. (1992). *Cf.* H.R. Rep. No. 102-966 (Committee of Conference), at 713, accompanying H.R. 5006, 102d Cong., 2d sess. (1992).
[10] H.R. 2401, §611, 103d Cong., 1st sess. (1992). See H.R. Rep. No. 103-200 (Committee on Armed Services), at 293, accompanying H.R. 2401, 103d Cong., 1st sess. (1993).
[11] S. Rep. No. 103-112 (Committee on Armed Services), at 152, accompanying S. 1298, 103d Cong., 1st sess. (1993).
[12] H.R. Rep. No. 103-357 (Committee of Conference), at 683, accompanying H.R. 2401, 103d Cong., 1st sess. (1993).
[13] S. 2182, §612, 103d Cong., 2d sess. (1994). See S. Rep. No. 103-282 (Committee on Armed Services), at 194, accompanying S. 2182, 103d Cong., 2d sess. (1994).
[14] H.R. 4301, §611, 103d Cong., 2d sess. (1994). See H.R. Rep. No. 103-499 (Committee on Armed Services), at 251, accompanying H.R. 4301, 103d Cong., 2d sess. (1994).

to increase the maximum amount of incentive special pay for nurse anesthetists and other critical nursing specialties from $6,000 to $15,000, the Senate Armed Services Committee noted:

> ... At present, certified registered nurse anesthetists can earn far more as civilians than as military personnel, and the compensation gap continues to increase.[15]

Accordingly, the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 103-337, increased the proposal to increase the amount of incentive special pay from a maximum of $6,000 to $15,000 a year and extended the program termination dates from September 30, 1995, to September 30, 1996.[16]

In connection with the extension of the termination dates for both programs from September 30, 1996, to September 30, 1997, effected by the National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201 §612(b) (accession bonus for registered nurses) and §612(c) (special pay for nurse anesthetists and other critical nursing specialties), 110 Stat. 2538 (1996), the House originally proposed a two-year extension, to September 30, 1998, whereas the Senate proposed only a one-year extension.[17] A one-year extension was agreed to in conference.[18]

In a related but slightly different context, nurses were specifically included within the category of persons entitled to special pay for nonphysician health care providers by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §617, 110 Stat. 186, 362 (1996), provided they meet the other requirements of 37 U.S.C. §302c(d).[19] For a discussion of these other requirements and of the amount of pay authorized for nurses who qualify as nonphysician health care providers, see Chapter II.E.1.e., "Special Pay for Psychologists and Other Nonphysician Health Care Providers," immediately above.[20]

The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2458 (2002), made substantial increases in the accession bonus for registered nurses and the incentive special pay for nurse anesthetists. The bonus rose from $5,000 to $30,000 and the incentive pay rose from $15,000 to $50,000.

The National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004), reduced the service obligation for nurses receiving the nurse accession bonus from four years to three years. The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136 (2006), authorized payment of a critical-skills accession bonus for persons enrolled in senior reserve officers' training corps obtaining nursing degrees. This payment was not to exceed $5,000.

On January 28, 2008, the National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 163, established the consolidation of special pay, incentive pay, and bonus authorities under subchapter II, chapter 5 of title 37, U.S. Code. Under this subchapter, special pay for health care professionals was consolidated under section 335, title 37, U.S. Code, "Special bonus and incentive pay authorities for officer in a health profession." Section 335, authorizes accession, affiliation, and retention

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[15] S. Rep. No. 103-282 (Committee on Armed Services), at 194, accompanying S. 2182, 103d Cong., 2d sess. (1994).
[16] H.R. Rep. No. 103-701 (Committee of Conference), at 713, accompanying S. 2182, 103d Cong., 2d sess. (1993).
[17] H.R. 1530, §612, and S. 1026, §612, 104th Cong., 1st sess. (1995). See H.R. Rep. No. 104-131 (Committee on National Security), at 230, accompanying H.R. 1530, and S. Rep. No. 104-112 (Committee on Armed Services), at 254-255, accompanying S. 1026, 104th Cong., 1st sess. (1995); *cf.* H.R. Rep. No. 104-406 (Committee of Conference), at 815, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 805, accompanying S. 1124, 104th Cong., 2d sess. (1996).
[18] H.R. Rep. No. 104-406 (Committee of Conference), at 815, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 805, accompanying S. 1124, 104th Cong., 2d sess. (1996).
[19] See 37 U.S.C. §302c(d) as amended by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §617, 110 Stat. 186, 362 (1996).
[20] See in particular footnotes 10 through 12 and accompanying text of Chapter II.E.1.e., "Special Pay for Psychologists and Other Nonphysician Health Care Providers," above.

bonuses as well as, health profession incentive pay and board certification incentive pay to health professions officers in both the regular or reserve components.

Under section 335, non-physician health care providers may be paid an accession or affiliation bonus not to exceed $30,000 for each 12-month period of obligated service; health professions retention bonus may not exceed $75,000 for each 12-month period of obligated service; health professions incentive pay may be paid monthly but may not exceed $15,000 in any 12-month period; and board certification incentive pay is up to $6,000 for a 12-month period for officers who remain certified in the designated health profession specialty or skill

The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 extended the designation of critically short wartime health specialties to include licensed psychologists and registered nurses, which authorizes an accession bonus of no more than $400,000.

The authority to pay the registered nurse accession bonus and the nurse anesthetist incentive special pay bonus has been extended in one-year increments through December 31, 2016.[21] After December 30, 2016, all new health profession special and incentive pays will be administered in accordance with section 335, title 37, U.S. Code.

Current rates of pay authorized: The maximum accession bonus currently authorized for registered nurses is $30,000 and the maximum annual incentive special pay currently authorized for nurse anesthetists and other officers in critical nursing specialties is $50,000 per year.

Cost: For the cost of special pays for nurses from 1990 to 2016, see tables II-29A–C, below.

Table II-29A. Accession Bonus for Registered Nurses, 1990–2016

Fiscal Year	Total Personnel	Cost ($000)
1990	793	3,965
1991	776	3,880
1992	580	2,994
1993	485	2,470
1994	666	3,330
1995	596	2,980
1996	460	2,300
1997	405	2,025
1998	287	1,435
1999	114	580
2000	328	1,640
2001	384	1,923
2002	379	1,895
2003	372	1,907
2004	295	2,475
2005	266	2,680
2006	139	2,550
2007	187	4,721
2008	233	6,250
2009	384	10,674
2010	356	10,678

[21] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 612, 129 Stat. 726, 838 (2015).

Fiscal Year	Total Personnel	Cost ($000)
2011	413	10,685
2012	360	9,296
2013	259	7,484
2014	227	6,079
2015	158	4,440
2016[1]	129	3,732

[1] Estimate.

Table II-29B. Incentive Special Pay for Certified Registered Nurse Anesthetists and Nurses Serving in Critical Nursing Specialties, 1990–2016

Fiscal Year	Total Personnel	Cost ($000)
1990	546	3,276
1991	816	4,896
1992	530	3,216
1993	490	2,939
1994	495	2,970
1995	559	6,975
1996	682	6,142
1997	825	8,022
1998	1,359	9,567
1999	1,114	8,695
2000	1,078	7,424
2001	946	7,961
2002	908	7,392
2003	1,503	14,027
2004	886	7,262
2005	953	7,841
2006	896	11,572
2007	1,364	14,104
2008	679	13,423
2009	1,955	21,880
2010	2,815	46,182
2011	2,232	38,944
2012	5,307	58,536
2013	2,613	62,957
2014	3,214	66,779
2015	2,746	60,352
2016[1]	2,923	63,544

[1] Estimate.

Table II-29C. Accession Bonus and Incentive Special Pay for Nurses—Total, 1990–2016

Fiscal Year	Total Personnel	Cost ($000)
1990	1,339	7,241
1991	1,592	8,776
1992	1,110	6,210
1993	975	5,409
1994	1,161	6,300
1995	1,155	9,955
1996	1,142	8,442
1997	1,230	10,047
1998	1,646	11,002
1999	1,228	9,275
2000	1,406	9,064
2001	1,330	9,884
2002	1,287	9,287
2003	1,875	15,934
2004	1,181	9,737
2005	1,219	10,521
2006	1,035	14,122
2007	1,551	18,825
2008	912	19,673
2009	2,339	32,554
2010	3,171	56,860
2011	2,645	49,629
2012	5,667	67,832
2013	2,872	70,441
2014	3,441	72,858
2015	2,904	64,792
2016[1]	3,052	67,276

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.E.2.a.
Engineering and Scientific Career Continuation Pay

Legal Authority: 37 U.S.C. §315.

Purpose: To provide an additional incentive for officers of the uniformed services with certain specially needed engineering and scientific skills to remain on active duty following completion of their initial active-service obligations.

Background: In the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §120(a), 95 Stat. 989, 998–99 (1981), Congress established a new special-pay program to induce officers in the armed forces with certain critically needed engineering and scientific skill specialties to remain on active duty, rather than returning to the civilian job market, after completion of their respective terms of obligated service. Under the provisions of the 1981 Pay Act, officers performing duties requiring an engineering or scientific degree in a skill specialty designated as of critical importance to the armed forces and in which there was a critical manning shortage were, subject to certain conditions set out below, eligible for engineering and scientific career continuation pay at rates ranging up to $3,000 per year. To be eligible for such pay, an officer was required to be in a pay grade below O-7, to hold an engineering or science degree from an accredited college or university, to be certified by the Secretary of his military department as having the technical qualifications for being detailed to engineering or scientific duty, to have completed at least three but less than 19 years of engineering or scientific duty as an officer, and to have executed a written agreement to remain on active duty for detail in an engineering or scientific capacity for at least one but not more than four years. Upon acceptance of such an agreement, an affected officer became eligible for the special continuation pay in an amount not to exceed $3,000 multiplied by the number of years, including fractions thereof, for which the officer agreed to remain on active duty. The pay could be paid either in a lump sum or in equal periodic installments, as determined by the Secretaries of the various military departments.

In adopting this new entitlement, Congress noted generally that the United States was currently facing a growing shortage of engineers and that that shortage, coupled with increased demand for such personnel in the private sector, had driven starting salaries to the $19,000 to $24,000 range.[1] Congress then went on to note that, "[g]iven these circumstances, it is not surprising that the military services are experiencing difficulty in attracting and retaining officers skilled in certain engineering and scientific disciplines."[2] To address this problem, the House of Representatives proposed an accession bonus of up to $15,000 for an initial four-year obligation and a continuation bonus of up to $3,000 per year for each year an officer with at least three but less than 19 years of service agreed to remain on active duty.[3] The Senate, agreeing to the special continuation pay, declined to adopt the accession bonus, and the latter was, in conference, deleted from the program.[4] The legislative history of the engineering and scientific career continuation pay program adopted in the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, *id.*, underlines Congress's intent that the pay not be authorized for military personnel already eligible for payment of accession and continuation bonuses under other provisions of law.[5] In addition, Congress

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[1] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 8, accompanying H.R. 3380, 97th Cong., 1st sess. (1981).
[2] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 8, accompanying H.R. 3380, 97th Cong., 1st sess. (1981).
[3] H.R. 3380, §5, 97th Cong., 1st sess. (1981). See H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 8, 20, and H.R. Rep. No. 97-109 (Part 2) (Committee on Appropriations), at 22, accompanying H.R. 3380, 97th Cong., 1st sess. (1981).
[4] H.R. Rep. No. 97-265 (Committee of Conference), at 25, accompanying S. 1181, 97th Cong., 1st sess. (1981); *cf.* S. Rep. No. 97-146 (Committee on Armed Services), accompanying S. 1181, 97th Cong., 1st sess. (1981).
[5] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 8, accompanying H.R. 3380, and H.R. Rep. No. 97-265 (Committee of Conference), at 25, accompanying S. 1181, 97th Congress, 1st Session (1981).

suggested that the bonus be phased out in such a way as to prevent significant decreases in total annual compensation when an officer loses eligibility.[6]

In presentations to the House Armed Services Committee, the Air Force and the Navy indicated that, together, they planned to use the new authority to pay bonuses of $1,000 to 1,000 officers, $2,000 to 650 officers, and $3,000 to 234 officers to improve retention during fiscal year 1982; the Army and Marine Corps indicated they did not expect to pay any such bonuses at all.[7]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §637(a), 99 Stat. 583, 648–49 (1985), extended program eligibility to officers of the Public Health Service and the National Oceanic and Atmospheric Administration as well as officers in the armed forces. Under the provisions of current 37 U.S.C. §315, all the uniformed services are capable of implementing engineering and scientific career continuation pay. Thus, officers in the uniformed services performing duties requiring an engineering or scientific degree in a skill specialty designated as of critical importance to the uniformed services (as determined by the Secretary of the department concerned) and in which there is a critical manning shortage are eligible for engineering and scientific career continuation pay. [See 37 U.S.C. §315(a), as amended by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*.]

The legislative history of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., does not speak to the question of why program eligibility was extended to officers in the Public Health Service and the National Oceanic and Atmospheric Administration. The House and Senate Conference Reports merely state:

> Currently, engineering and scientific career continuation pay may be paid to certain officers of the Armed Forces in critical shortage skills.
>
> The Senate bill [S. 1160, 99th Congress, 1st Session (1985)] contained a provision ... that would also authorize the payment of this special pay to members of the National Oceanic and Atmospheric Administration and the Public Health Service.
>
> The House amendment contained no similar provision.
>
> The House recedes.[8] [9]

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[6] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 8, accompanying H.R. 3380, and H.R. Rep. No. 97-265 (Committee of Conference), at 25, accompanying S. 1181, 97th Cong., 1st sess. (1981). (While the House had suggested merely that the new pay be phased out so that officers with 19 years of service not experience a significant decrease in compensation, the Conference Committee suggested the pay be phased out by the end of the fourteenth year of service. The law, however, only requires that it be phased out before the beginning of an officer's nineteenth year of service.)

[7] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 20, and H.R. Rep. No. 97-109 (Part 2) (Committee or Appropriations), at 22, accompanying H.R. 3380, 97th Cong., 1st sess. (1981).

[8] H.R. Rep. No. 99-235 (Committee of Conference), at 431, and S. Rep. No. 99-118 (Committee of Conference), at 431, both accompanying S. 1160, 99th Cong., 1st sess. (1985).

[9] In its consideration of authorizations for the Department of Defense for fiscal year 1986, the Senate Committee on Armed Services initially reported out S. 1029, which was accompanied by S. Rep. No. 99-41, 99th Cong., 1st sess. (1985). Before this bill was considered by the full Senate, the Senate Committee on Armed Services reported out a clean bill, S. 1160, but did not issue a report on the new bill. As explained by Senator Goldwater, Chairman of the Committee:

> ... The Armed Services Committee reported S. 1029 to the Senate on April 29 of this year. The bill was accompanied by S. Rep. No. 99-41.
>
> When the Armed Services Committee learned that the Senate would approve no real growth in the defense budget, it reconvened on Wednesday of this week [May 15, 1985] to make further program reductions to conform to the ceiling in the budget resolution. The Committee has reported a clean bill, S. 1160, reflecting these new budget levels....
>
> Most of the Senate Report 99-41 continues to be applicable to this bill....

In fact, the Fifth Quadrennial Review of Military Compensation,[10] in statutorily required reports to Congress, recommended extending entitlements to engineering and scientific career continuation pay to officers in the Public Health Service and the National Oceanic and Atmospheric Administration as follows:

> Title 37 U.S.C. authorizes this pay [i.e., engineering and scientific career continuation pay] for the "Armed Forces." Public Health Service and the National Oceanic and Atmospheric Administration are "Uniformed Services" not authorized to use this bonus. Because there is no immediate critical need in these services, this should not preclude them from the authority to implement this incentive in the future if the need should arise. The statute should apply to all Uniformed Services.[11]

Congress may well have been persuaded by this reasoning.

Because of the purpose of the special-pay program for engineering and scientific duty officers—namely, "attracting and retaining officers skilled in certain engineering and scientific disciplines"[12] on active duty[13]—engineering and scientific career continuation pay is not authorized for members of the reserve forces performing inactive-duty training.

Current rate of pay authorized: Engineering and scientific career continuation pay is currently authorized at a rate not to exceed $3,000 for each year of an active-duty agreement.[14]

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131 Cong. Rec. 12438, 12500 (1985) (131 Cong. Rec. S6415, S6475 (daily ed. May 17, 1985)) (statement of Senator Goldwater). In "explanatory background information" on some of the differences between S. 1029 and S. 1160, the following appears:

> The compensation and benefits provisions of the bill contain significant differences from those contained in S. 1029....
>
> ... In addition the Committee recommended increases or enhancements to a number of special and incentive pays....
>
> Each of these benefit increases or enhancements are in addition to the modest improvements in benefits previously recommended in S. 1029.

131 Cong. Rec. 12474 (1985) (131 Cong. Rec. S6450 (daily ed. May 17, 1985)) (statement of Senator Goldwater). Neither S. Rep. No. 99-41 nor the "explanatory background information" provided by Senator Goldwater specifically dealt with the "enhancements" to the engineering and scientific career continuation pay program contained in S. 1160 and subsequently adopted in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §637(a), 99 Stat. 583, 648–49 (1985).

[10] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001.

[11] *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 381. Also see *Report of the Fifth Quadrennial Review of Military Compensation*, *Volume III: Special and Incentive Pays*, November 1983, 16–17; and *Report of the Fifth Quadrennial Review of Military Compensation*: *Executive Summary*, January 1984, VI-8.

[12] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 8, accompanying H.R. 3380, 97th Cong., 1st sess. (1981).

[13] Under 37 U.S.C. §315(b)(6), engineering and scientific career continuation pay is authorized only for officers executing agreements obligating them to remain on active duty. Also see text at footnotes 1, 2, and 3 to this chapter above.

[14] A qualifying active-duty agreement must obligate an affected officer to remain on active duty for at least one but not more than four years.

Cost: For the cost of engineering and scientific career continuation pay from 1982 to 1988, see table II-30, below.

Table II-30. Engineering and Scientific Career Continuation Pay, 1982–1988

Fiscal Year	Total Officers	Cost ($000)
1982	1,255	$6,316
1983	1,582	4,684
1984	1,726	4,890
1985	1,525	4,060
1986	749	1,494
1987	428	857
1988	222	444

Chapter II.E.2.b.
Enlistment Bonus

Legislative Authority: 37 U.S.C. §309.

Purpose: To provide a monetary incentive to induce persons to enlist for and serve in military skill specialties experiencing critical personnel shortages.

Introduction: Enlistment-bonus authority pre-dates the formation of the United States. A 1776 resolution of the Continental Congress offered a cash bonus or "bounty" as a spur to enlistments. The enlistment "bounty" played a prominent part in raising United States military forces until after the Civil War (1861–65). It then fell from favor, principally because it had proved ineffective and been subject to abuse during that war. Except for one year in the 1920s, it was not revived until 1971, when an enlistment bonus was again authorized as a corollary to the end of conscription and the move to a relatively large "all-volunteer" military force. The crucial difference between the original enlistment-bonus program and the present-day enlistment-bonus program is that, whereas the original enlistment bonus, or "bounty," was available to anyone enlisting in the precursor of today's Army, present-day enlistment-bonus authority is applicable only to persons enlisting in military skill specialties designated as "critical." Whereas the original enlistment bonus was payable only to persons enlisting in the Army, today's enlistment-bonus authority extends to members of all branches of the armed forces.

Background: The first congressional authority for an enlistment bonus—called a "bounty for enlistment" at the time—was the Act of March 3, 1791, ch. 28, §4, 1 Stat. 222 (1791), which granted a $6 "bounty" to "each non-commissioned officer, private and musician, who has enlisted pursuant to [an earlier enactment], or who shall enlist pursuant to this act."[1] The Act of March 5, 1792, ch. 9, §5, 1 Stat. 241, 242 (1792), increased the "bounty" to $8 for every "recruit who shall be enlisted by virtue of this act" as well as to "the non-commissioned officers, privates and musicians now in service, who have enlisted for three years" under the authority of the same earlier enactment referred to in the Act of March 3, 1791, ch. 28, *id*. The Act of March 3, 1795, ch. 44, §6, 1 Stat. 430 (1795), further increased the bounty payable "to each person not now in the army of the United States ... who shall hereafter enlist," this time to $14, $4 of which was to be "deferred until [the enlistee] shall have joined the corps in which he is to serve." The amount of the "bounty" authorized fluctuated in a fairly narrow range[2] until the Act of January 27, 1814, ch. 7, §1, 3 Stat. 94, 94–95 (1814), boosted it to the then-mammoth sum of $124. The $124 authorized was, however, a "bounty" with a string attached. An earlier law had created a separation payment equal to three months' pay. A recruit had to give up the right to the separation payment to qualify for the $124 enlistment bounty.

The Mexican War (1846) brought the next change to the program. The Act of February 11, 1847, ch. 8, §9, 9 Stat. 123, 125–26 (1847), authorized a bounty of 160 acres of public land or, alternatively, $100 in Treasury scrip to men enlisting in the Army for 12 months or longer. Those enlisting for less than a year were entitled to 40 acres or $25, again in scrip, provided they "marched to the seat of war." Use of the enlistment bounty waned during the period of peace that followed, but reached the height of its development after the Civil War broke out.

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[1] The Act of March 3, 1791, ch. 28, §12, 1 Stat. 222, 224 (1791), also authorized a $3 "bounty" to be paid to "each of the non-commissioned officers, privates and musicians" raised as presidential "levies" of the United States. The act further provided that "troops inlisted [*sic*] under the denomination of levies" and "non-commissioned officers, privates and musicians of the militia" were, when "call[ed] into service of the United States," entitled to "the same pay, rations and forage ... as the troops of the United States." Act of March 3, 1791, ch. 28, *id*., §10, 1 Stat. 223.

[2] e.g., under the Act of March 16, 1802, ch. 9, §12, 2 Stat. 132, 135 (1802), the "bounty" for "each able-bodied citizen, recruited ... to serve the term of five years" was set at $12—$2 less than the bounty authorized by the Act of March 3, 1795, ch. 9, *id*., §5, 1 Stat. 242—$6 of which was "deferred until [the enlistee] shall be mustered and have joined the corps in which he is to serve."

The federal "bounty," or "premium," soared to a peak of $402 during the Civil War. Under the then-existing volunteer army system, states, counties, and municipalities also paid a bounty. Competition for volunteers was intense, causing local bounties to climb as high as $1,500. The practice of "bounty jumping" plagued the system: soldiers who had been paid a bounty deserted, enlisted in some other state, and collected another bounty. The process was frequently repeated several times. Bounty payments were discontinued for enlistments entered into after April 30, 1865. The enlistment bounty never recovered completely from its unsavory Civil War reputation. It remained in virtual eclipse as a recruitment device for roughly the next 100 years until, upon reemergence, it was restructured and given a different name. The blunt language of Section 3 of the Act of May 18, 1917, ch. 15, Pub. L. No. 65-12, §3, 40 Stat. 76, 78 (1917), enacted shortly after the United States entered World War I, reflects the low repute in which the bounty and certain other Civil War recruitment practices were held:

> No bounty shall be paid to induce any person to enlist in the military service of the United States; and no person liable to military service shall hereafter be permitted or allowed to furnish a substitute for such service; nor shall any substitute be received, enlisted, or enrolled in the military service of the United States; and no such person shall be permitted to escape such service or to be discharged therefrom prior to the expiration of his term of service by the payment of money or any other valuable thing whatsoever as consideration for his release from military service or liability thereto.

Indeed, to the present day 10 U.S.C. §514 provides:

> (a) No bounty may be paid to induce any person to enlist in an armed force. A clothing allowance or enlistment bonus authorized by law is not a bounty for the purposes of this subsection.
>
> (b) No person liable for active duty in an armed force under this subtitle [10 U.S.C. Subtitle A, "General Military Law"] may furnish a substitute for that active duty. No person may be enlisted or appointed in an armed force as a substitute for another person.[3]

Although bounties per se are still prohibited, enlistment bonuses are to be distinguished from bounties and have been authorized at different times over the years. Thus, the Act of June 4, 1920, ch. 227, Pub. L. No. 66-242, §27, 41 Stat. 759, 775 (1920), granted a $90 bonus,[4] payable at the end of the term of enlistment, to persons enlisting in the Army for three years. This enlistment bonus was repealed the following year in the Act of June 30, 1921 (Army Appropriation Act of 1922), ch. 33, Pub. L. No. 67-27, §1, 42 Stat. 68, 74 (1921).

The Act of September 28, 1971 (Military Selective Service Act Amendments of 1971), Pub. L. No. 92-129, §203(a), 85 Stat. 348, 358 (1971), adding Section 308a to Title 37, United States Code,[5] allowed, until June 30, 1973, payment of an enlistment bonus of not more than $3,000 to persons who enlisted for three or more years in a combat element of an armed force or who extended their initial period of active duty in such an element to a total of at least three years. Use of the bonus began June 1, 1972, when the Army and Marine Corps were permitted to test the program by paying a $1,500 bonus to persons enlisting for four years of service in an infantry, artillery, or armor career field. When draft calls stopped after December 1972, enlistments into the combat arms skills began to decline. On May 1, 1973, the amount of the combat arms bonus was increased to

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[3] In this same connection, see also Selective Service Act of 1948, ch. 625, Pub. L. No. 80-759, §8, 62 Stat. 604, 614 (1948), which is the source of current 10 U.S.C. §514. Both provisions specifically state that clothing allowances and enlistment bonuses if "authorized by law" are not within the prohibitions on "bounties." (The catchline for 10 U.S.C. §514 is "Bounties prohibited; substitutes prohibited".)

[4] *Cf.* Act of June 4, 1920, ch. 227, Pub. L. No. 66-242, §4, 41 Stat. 759, 761 (1920).

[5] Recognizing the continuing prohibition on "bounties" found at 10 U.S.C. §514, Congress, in adopting the enlistment bonus provisions set out at 37 U.S.C. §308a, specifically provided that the prohibitions of 10 U.S.C. §514(a) should not be applicable. 37 U.S.C. §308a(a) as added by the Act of September 28, 1971 (Military Selective Service Act Amendments of 1971), Pub. L. No. 92-129, §203(a), 85 Stat. 348, 358 (1971); see current 37 U.S.C. §308a(a) ("Notwithstanding section 514(a) of title 10 [United States Code] or any other law, . . .").

$2,500, and the Army extended the program to cover 12 new combat technical skills. Congress, however, believed the program should not be so extended, and, in the Act of July 9, 1973, Pub. L. No. 93-64, §204, 87 Stat. 147, 149 (1973), changed the controlling language to provide that the bonus was payable only for enlistments or extensions in the fields of infantry, artillery, or armor, while at the same time extending the basic authority to June 30, 1974.

The Armed Forces Enlisted Personnel Bonus Revision Act of 1974, Pub. L. No. 93-277, §2(2), 88 Stat. 119, 120–21 (1974), removed the "combat arms" limitation from the enlistment-bonus program; permitted a bonus payment of up to $3,000 to persons enlisting for four or more years, or extending an initial enlistment for such a period, in any skill designated as "critical" for the purposes of the enlistment-bonus program; and provided for the enlistment-bonus authority to be extended through June 30, 1977. The Air Force did not use the existing enlistment-bonus authority before 1981 in its recruiting efforts, and the Navy temporarily suspended its use of the program in 1977 and 1978. The Army and the Marine Corps are the only services that have consistently used the program.

Between enactment of the Armed Forces Enlisted Personnel Bonus Revision Act of 1974, Pub. L. No. 93-277, *id*., and 1992, the basic authority for the payment of enlistment bonuses was extended eight times: first, from June 30, 1977, to September 30, 1978, by the Act of June 29, 1977, Pub. L. No. 95-57, §2, 91 Stat. 253 (1977); second, to September 30, 1980, by the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §802(b), 92 Stat. 1611, 1619 (1978); third, to September 30, 1982, by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §804(b), 94 Stat. 1077, 1092 (1980); fourth, to December 17, 1982, by the Act of October 2, 1982, Pub. L. No. 97-276, §131, 96 Stat. 1186, 1197 (1982); fifth, to March 31, 1983, by the Act of December 21, 1982, Pub. L. No. 97-377, §798, 96 Stat. 1830, 1865 (1982); sixth, to September 30, 1984, by the Act of March 30, 1983, Pub. L. No. 98-14, §1, 97 Stat. 55 (1983); seventh, to September 30, 1987, by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §621(a), 98 Stat. 2492, 2540 (1984);[6] and eighth, to September 30, 1992, by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(a), 101 Stat. 1019, 1104 (1987).[7] The need to attract additional personnel to military combat skill areas experiencing critical shortages underlay all these extensions.[8]

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[6] In connection with congressional action on the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §621(a), 98 Stat. 2492, 2540 (1984), the House Armed Services Committee recommended a five-year extension of enlistment-bonus authority, to September 30, 1989. See H.R. Rep. No. 98-691 (Committee on Armed Services), at 257, accompanying H.R. 5167, 98th Cong., 2d sess. (1984). But the Senate Armed Services Committee recommended only a two-year extension. See S. Rep. No. 98-500 (Committee on Armed Services), at 208, accompanying S.2723, 98th Cong., 2d sess. (1984). A three-year extension to September 30, 1987, was agreed to in conference. See H.R. Rep. No. 98-1080 (Committee of Conference), at 297, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[7] With respect to the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(a), 101 Stat. 1019, 1104 (1987), the House Armed Services Committee recommended a five-year extension of enlistment bonus authority, to September 30, 1992. See H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, and H.R. Rep. No. 100-58 (Committee on Armed Services), at 205, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). But the Senate Armed Services Committee recommended only a two- year extension. See H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). The five-year extension initially recommended by the House Armed Services Committee was agreed to in conference. See H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). As stated by the House Armed Services Committee:

> The enlistment and selective reenlistment [also covered by the extension] bonus programs have proven invaluable in recruiting and retaining high quality individuals for all components of the Total Force. The committee believes that these programs have permitted the services to selectively target their resources to meet service-unique accession and retention needs in a judicious and cost effective manner.

H.R. Rep. No. 100-58 (Committee on Armed Services), at 205, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).

[8] See, e.g., H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).

Since 1992, the program termination date has been extended annually by the national defense authorization acts for the respective years. The only exceptions were the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, which mandated a two-year extension through September 30, 1995, and the National Defense Authorization Act for Fiscal Year 1999, which mandated a three-month extension to move the termination date from the end of the fiscal year, September 30, to the end of the calendar year, December 31. The National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, 122 Stat. 4356 (2008), extended the program through December 31, 2009.

In addition to the extensions discussed above, four additional substantive changes to the basic legislation have been made since 1974. The Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §804(b), 94 Stat. 1077, 1092 (1980), increased the maximum amount of enlistment bonus payable with respect to any single enlistment from $3,000 to $5,000, and the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §117(b)(1), 95 Stat. 989, 996 (1981), further increased the maximum from $5,000 to $8,000, while at the same time providing that the first installment of the bonus could not exceed $5,000, with the remainder to be paid in equal periodic installments payable not less frequently than once every three months. As reflected in relevant congressional reports, these increases were adopted because of the "need to ensure that the active Armed Forces not only have the total number of persons required, but that those recruited ... have the ability to use and maintain the increasingly more sophisticated weapons with which those forces are being equipped" and in response to the conviction that the "resources needed to attract the number and kinds of people required must be provided."[9] [10] The maximum amount of the bonus payable was again increased in 1989, this time from $8,000 to $12,000, with the first installment limited to a maximum of $7,000, by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §612(a)(1) and (2), 103 Stat. 1352, 1445–1446 (1989). This increase was authorized "to assist [especially the Army] in recruiting high quality personnel to fill critical skill requirements."[11] As stated by the House Armed Services Committee, which had proposed the increase:

> Under current law, an individual who enlists in the Armed Forces in a critical skill may be paid an enlistment bonus of up to $8,000. The first installment of that bonus may not exceed $5,000.
>
> Several of the services have begun to experience recruiting difficulties during the current fiscal year at a time when youth unemployment has declined markedly and private sector wages are on the rise.
>
> To assist the services in remaining competitive for high quality young men and women, [the bill] would increase the maximum bonus payable to $12,000, with the first installment not to exceed $7,000.
>
> The committee expects the services to use this enhanced authority very judiciously, for only the most difficult-to-recruit skills, and anticipates that only the Army will exercise the authority during fiscal year 1990....[12]

Accordingly, between 1989 and 1999 the four-year enlistment bonus authorized by 37 U.S.C. §308a offered a maximum bonus of $12,000 for a four-year enlistment, with a maximum payment of $7,000 authorized for the

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[9] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 5, accompanying H.R. 3380, 97th Cong., 1st sess. (1981). See H.R. Rep. No. 97-109 (Part 2) (Committee on Appropriations), at 8–9, accompanying H.R. 3380, 97th Cong., 1st sess. (1981); S. Rep. No. 97-146 (Committee on Armed Services), at 11, accompanying S.1181, 97th Cong., 1st sess. (1981); and H.R. Rep. No. 97-265 (Committee of Conference), at 24, accompanying S.1181, 97th Cong., 1st sess. (1981). See also S. Rep. No. 96-826 (Committee Armed Services), at 122–25, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).

[10] The $5,000 limit on the amount of the first installment of an enlistment-bonus payment was adopted because of budgetary concerns.

[11] H.R. Rep. No. 100-331 (Committee of Conference), at 585, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

[12] H.R. Rep. No. 101-121 (Committee on Armed Services), at 275, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

first installment. The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 654 (1999), increased the maximum bonus from $12,000 to $20,000, with payments to be made either in a single lump sum or in installments. The Senate Armed Services Committee made this comment on the rationale for these changes:

> The committee believes [that] increasing the maximum amount of and paying the enlistment bonus in a lump-sum will serve as an incentive to enlistees to successfully complete their skill training.[13]

The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-152 (2000), prescribed a single enlistment bonus of $20,000 for all enlistees with designated special skills (see below).

In recognition of special recruiting problems confronting the Army, the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §117(c)(1), 95 Stat. 989, 996 (1981), also adopted a special provision, codified as 37 U.S.C. §308f, allowing the Army to pay an enlistment bonus, in the maximum amount of $4,000, to recruit high school graduates (or persons who have received equivalency certificates) who score at or above the fiftieth percentile on the Armed Forces Qualification Test (frequently referred to as the AFQT) and who enlist for at least three years in a skill designated as critical. As previously indicated, the standard enlistment bonus payable under 37 U.S.C. §308a may be paid only to persons enlisting for four or more years, and Congress felt that, in light of the Army's special problems in attracting and retaining the "number and kinds of people required" to deal with the "increasingly more sophisticated weapons," a special recruiting tool was needed.[14] For this reason, it authorized "a one-year test program" to determine whether a lower bonus for a three-year enlistment could produce an enlisted profile adequate to meet the specialized needs of the modern Army.[15] The authority for what originally began as a "one year test program" has subsequently been extended six times: first, to September 30, 1984, by the Act of March 30, 1983, Pub. L. No. 98-14, §2, 97 Stat. 55 (1983); second, to September 30, 1987, by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §621(a), 98 Stat. 2492, 2540 (1984); third, to September 30, 1992, by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(a), 101 Stat. 1019, 1104 (1987);[16] fourth, to September 30, 1995, by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §613(e), 107 Stat 1547, 1681 (1993);[17] fifth, to September 30, 1996, by the National Defense Authorization Act for Fiscal Year 1995, Pub.

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[13] S. Rep. No. 106-050 (Committee on Armed Services), accompanying S. 1059, 106th Cong., 1st sess. (1999).

[14] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 5–7, accompanying H.R. 3380, 97th Cong., 1st sess. (1981).

[15] H.R. Rep. No. 97-109 (Part 1) (Committee on Armed Services), at 5–7, accompanying H.R. 3380, 97th Cong., 1st sess. (1981). Also see H.R. Rep. No. 97-265 (Committee of Conference), at 24, accompanying S.1181, 97th Cong., 1st sess. (1981).

[16] The same compromise concerning the length of the extension under the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §621(a), 98 Stat. 2492, 2540 (1984), and the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(a), 101 Stat. 1019, 1104 (1987), was reached for the Section 308f enlistment bonus, 37 U.S.C. §308f, as was reached for the Section 308a, 37 U.S.C. §308a, enlistment bonus. See footnotes 7 and 8 to this chapter, above, respectively.

[17] When Congress extended the termination date for the critical-skills enlistment-bonus program authorized by 37 U.S.C. §308a from September 30, 1992, to September 30, 1993, in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, 106 Stat. 2315 (1992)—see text accompanying footnote 11 to this chapter, above—it did not make a comparable extension to the Army enlistment-bonus program authorized by 37 U.S.C. §308f. Neither the House nor Senate Armed Services Committees gave any reason for not extending the termination date for the Army enlistment-bonus program. Indeed, neither even mentioned the Army enlistment-bonus program. *Cf.* H.R. Rep. No. 102-527 (Committee on Armed Services), at 243–44, accompanying H.R. 5006; S. Rep. No. 102-352 (Committee on Armed Services), at 208, accompanying S. 3114; and H.R. Rep. No. 102-966 (Committee of Conference), at 612, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). When in November of 1993 Congress again extended the termination date for the critical-skills enlistment-bonus program of 37 U.S.C. §308a from September 30, 1993, to September 30, 1995, it at the same time extended the termination date for the Army enlistment-bonus program from September 30, 1992, to September 30, 1995.

L. No. 103-337, §613(c), 108 Stat. 2663, 2783 (1994); and sixth to September 30, 1997, by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §613(c), 110 Stat. 186, 359 (1996).[18] In support of the 1994 extension of the Army enlistment-bonus authority almost a full year before it was otherwise due to expire, the Senate Armed Services Committee, which was the moving force behind the extension, merely noted that it "recommended" the extension for the critical-skills enlistment-bonus program authorized by 37 U.S.C. §308a; no separate mention was made of the Army enlistment-bonus program.[19] The national defense authorization acts for fiscal years 1997 through 2000 prescribed the same one-year extensions as had been the norm in most of the previous years.

The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-152, made the $20,000 bonus applicable to individuals with critical skills who enlist for as little as two years. U.S.C. 37 §309, which was created by that legislation, consolidated the enlistment-bonus programs under one set of conditions, repealing §§308a and 308f. Those sections had, respectively, prescribed enlistment bonuses for "skill[s] designated as critical" (a minimum four-year enlistment) and for enlistees with a critical skill but an education level of high school or its equivalent (a minimum two-year enlistment, which had been reduced from three years by the National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65). Under 37U.S.C. §308f, the latter category had received a maximum bonus of $6,000. In the words of the House Armed Services Committee:

> This section would consolidate existing enlistment bonus authorities and establish a maximum amount of $20,000 that may be paid to any enlistee.[20]

Thus the two enlistment-bonus programs, whose coexistence had begun with the establishment of the three-year enlistment program by the Uniform Services Pay Act of 1981, were combined with a single bonus maximum of $20,000. The repeal of 37 U.S.C. §308a and §308f effectively replaced those sections' specific references to "a person who enlists in an armed force for a period of at least four years in a skill designated as critical" (§308a) and the specific educational requirements for two-year enlistees (§308f) with the more general description of potential recipients of the enlistment bonus in the new §309: "a person who enlists in an armed force for a period of at least 2 years." The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3142 (2006), increased the maximum bonus for enlisting in the armed forces for at least two years from $20,000 to $40,000.

See National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §613(e), 107 Stat 1547, 1681 (1993). In so doing, it specifically made the extension applicable to any Army enlistments that occurred on or after September 30, 1992, National Defense Authorization Act for Fiscal Year 1994, *id*., §613(h)(3), 107 Stat. 1682, thereby effectively filling in the period of lapsed authority. No separate reason was given for extending the Army enlistment-bonus program after a 14-month period of lapsed authority. See H.R. Rep. No. 103-200 (Committee on Armed Services), at 294–95, accompanying H.R. 2401; S. Rep. No. 103-112 (Committee on Armed Services), at 152, accompanying S. 1298; and H.R. Rep. No. 103-357 (Committee of Conference), at 683, accompanying H.R. 2401, 103d Cong., 1st sess. (1994). Indeed, the fact that the Army enlistment-bonus authority was not even separately mentioned together with the fact that the extension of the program was given retroactive effect could support the conclusion that the failure to extend the authority in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, 106 Stat. 2315 (1992), was inadvertent.

[18] The House bill, H.R. 1530, 104th Cong., 1st sess. (1995), contained a provision—§613—that would have extended the 37 U.S.C. §308f authority for two years, whereas the Senate bill, S. 1026, 104th Cong., 1st sess. (1996), contained a provision—also §613—that would have extended the authority for only one year. A one-year extension was agreed to in conference. H.R. Rep. No. 104-450 (Committee of Conference), at 805–6, accompanying S. 1124, 104th Cong., 2d sess. (1996), and H.R. Rep. No. 104-406 (Committee of Conference), at 815–16, accompanying H.R. 1530, 104th Cong., 1st sess. (1996); *cf*. H.R. Rep. No. 104-131 (Committee on National Security), at 231, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and S. Rep. No. 104-112 (Committee on Armed Services), at 254–55, accompanying S. 1026, 104th Cong., 1st sess. (1995).

[19] S. Rep. No. 103-282 (Committee on Armed Services), at 193–94, accompanying S. 2182, 103d Cong., 2d sess. (1994); *cf*. H.R. Rep. No. 103-701 (Committee of Conference), at 713, accompanying S. 2182, 103d Cong., 2d sess. (1994).

[20] H.R. Rep. No. 106-616 (Committee on Armed Services), accompanying H.R. 4205, 106th Cong., 2d sess. (2000).

To reiterate: notwithstanding statutory authority explicitly countenancing the use of enlistment bonuses for recruitment purposes, Section 514 of Title 10, United States Code, 10 U.S.C. §514, continues to prohibit the use of "bounties" for those purposes:

> (a) No bounty may be paid to induce any person to enlist in an armed force. A clothing allowance or enlistment bonus authorized by law is not a bounty for the purposes of this section.
>
> (b) No person liable for active duty in an armed force under this subtitle may furnish a substitute for that active duty. No person may be enlisted or appointed in an armed force as a substitute for another person.

As made clear by subsection (a) of Section 514, an "enlistment bonus authorized by law" is not one of the prohibited "bounties," even when transparently made to induce a person to enlist in an armed force. Arguably, any other form of payment—whether involving present or deferred compensation—made to induce a person to enlist in an armed force could be viewed as a prohibited "bounty," although any payment made pursuant to specific statutory authorization could always be argued to be an "enlistment bonus," even if not explicitly characterized as such. Clearly, however, any payment not authorized by law made to induce a person to enlist in an armed force runs the risk of being characterized as a "bounty"—and an unlawful "bounty" at that.

On January 28, 2008, the National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 163, established the consolidation of special pay, incentive pay, and bonus authorities under subchapter II, chapter 5 of title 37, U.S. Code. Under this subchapter, special pays enlisted members were consolidated under section 331, title 37, U.S. Code, "General bonus authority for enlisted members." Section 331, authorizes accession, affiliation, and retention bonuses for both active and reserve enlisted members, as well as, transfer bonuses for enlisted members transferring from another armed force or from a reserve component to the regular component or vice versa. The Military Services will no longer be authorized to offer bonuses under 37 U.S.C. §309, after January 28, 2018.

Under section 331, an enlistment bonus or affiliation bonus with a reserve component of an armed force may not exceed $50,000 for a minimum 2-year service obligation. Reenlistment and extension bonuses are capped at $30,000 for each year of obligated service in a regular component and $15,000 for each year of obligated service in a reserve component. Transfer bonuses, regardless of type may not exceed $10,000.

The authority to pay the enlistment bonus has been extended in one year increments through December 31, 2016.[21]

Current rates of pay authorized: The maximum enlistment bonus for critical skills currently authorized under 37 U.S.C. §309 is $40,000. The enlistment bonus may be paid in a lump sum or in equal periodic installments.

Cost: For the cost of the enlistment bonus from 1972 to 2016, see table II-31, below.

Table II-31. Enlistment Bonus, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	1,022	1,533
1973	27,144	40,917
1974	18,440	43,012
1975	24,099	58,776
1976	29,626	68,481
1977	14,058	30,295
1978	14,741	34,076
1979	18,280	42,683

[21] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 615, 129 Stat. 726, 839 (2015).

Fiscal Year	Total Personnel	Cost ($000)
1980	20,246	50,625
1981	25,183	69,370
1982	29,123	106,202
1983	35,031	122,103
1983	43,620	113,625
1985	44,213	117,838
1986	40,767	127,315
1987	32,810	87,802
1988	25,546	63,048
1989	25,528	63,450
1990	36,746	79,316
1991	20,218	50,734
1992	15,459	33,313
1993	9,867	28,743
1994	6,273	19,156
1995	8,457	20,356
1996	23,728	59,277
1997	25,064	67,892
1998	31,820	97,213
1999	55,089	175,415
2000	65,184	258,665
2001	88,476	387,526
2002	90,898	396,967
2003	75,103	334,329
2004	62,502	281,818
2005	52,759	254,106
2006	83,984	448,502
2007	73,450	595,205
2008	106,435	584,586
2009	152,430	180,858
2010	156,943	738,363
2011	120,842	403,770
2012	87,366	310,056
2013	55,721	188,139
2014	21,556	106,044
2015	43,197	107,699
2016[1]	60,095	146,779

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.E.2.c.
Selective Reenlistment Bonus (SRB)

Legislative Authority: 37 U.S.C. §308.[1]

Purpose: To provide a monetary incentive to encourage the reenlistment of sufficient numbers of qualified enlisted uniformed services personnel in critical skill specialties with high training costs or demonstrated retention shortfalls.

Introduction: Unlike the enlistment bonus, which until recently was used chiefly as a device for raising military forces during a war or other national emergency,[2] the primary purpose of the reenlistment bonus has been to maintain an adequate level of experienced and qualified enlisted personnel in the peacetime forces of the uniformed services. Legislative authority for a reenlistment bonus of one form or another has existed continuously since shortly after the Revolutionary War under a number of different names: "bounty for reenlistment" (until the word "bounty" grew to have unfavorable connotations[3]); honorable discharge gratuity; enlistment allowance; reenlistment allowance; reenlistment bonus; regular reenlistment bonus; variable reenlistment bonus; and selective reenlistment bonus. Even the longevity pay steps now included in basic pay rates were originally conceived as reenlistment incentives. Although the various reenlistment-bonus programs have been drastically changed over time, one thread is common to all: in order to qualify for the bonus, a member must serve "continuously" or reenlist "immediately." This "now-or-never" arrangement, though integral to all the programs, has always been applied more flexibly than the ordinary meaning of the terms "continuous" and "immediate" might suggest. Depending on the bonus involved, a non-disqualifying break in service of from 24 hours to three months has been allowed.

Background: The Act of March 3, 1795, ch. 44, §6, 1 Stat. 430 (1795), provided the first authority for the payment of a "bounty" or bonus to persons reenlisting in the armed forces of the United States.[4] It established a "bounty of sixteen dollars" to "be allowed and paid to each soldier now in the service of the United States, or discharged therefrom subsequent to the third day of March last [1794], who shall re-enlist" in the service of the United States. The Act of March 2, 1833, ch. 68, §3, 4 Stat. 647 (1833), replaced the fixed-sum reenlistment "bounty" with an award of two months' pay. Since that same act also prescribed enlisted pay rates that ranged from $6 to $16 a month, the change was not particularly significant in terms of bonus dollars. The Act of July 5, 1838, ch. 162, §29, 5 Stat. 256, 260 (1838), increased the bonus to three months' pay accompanied by a warrant for 160 acres of public land after 10 years of service. However, for reasons obscured by time, the land warrant was repealed just two days later. All these bonus provisions applied only to members of the Army.

The lump-sum reenlistment bonus was replaced in the Act of August 4, 1854, ch. 247, §2, 10 Stat. 575 (1854), by a system under which Army enlisted personnel received a $2 monthly addition to their

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[1] The present chapter also deals with the incentive special pay program authorized at 37 U.S.C. §312a for nuclear-trained and -qualified enlisted members. See footnotes 29 and 30 to this chapter together with accompanying text, below.

[2] The Act of September 28, 1971 (Military Selective Service Act Amendments of 1971), Pub. L. No. 92-129, §203(a), 85 Stat. 348, 358 (1971), which added Section 308a to Title 37, United States Code, was the first enlistment bonus authority that was targeted to filling vacancies in particular military skills as opposed to more wholesale and indiscriminate raising of troops. See text accompanying footnotes 1 through 6 of Chapter II.E.2.b., "Enlistment Bonus," above.

[3] See discussion of "bounties" generally in text accompanying footnotes 4 through 6 in Chapter II.E.2.b., "Enlistment Bonus," above.

[4] The first enlistment bonus, or "bounty," had been authorized by the Act of March 3, 1791, ch. 28, §4, 1 Stat. 222 (1791). See text accompanying footnote 2 to Chapter II.E.2.b., "Enlistment Bonus," above. Since the normal enlistment period at that time was three years, persons who had enlisted in response to the inducements offered by the Act of March 3, 1791, ch. 28, *id*., had begun to finish their terms of obligated service in March of 1794 and following, and it was determined that incentives should be offered to persuade them to reenlist.

regular pay during their first continuous reenlistment and a further addition of $1 per month during each succeeding reenlistment. Since the length of Army enlistments and reenlistments was then fixed at five years, these additions to pay, referred to as "bounties for reenlistment," were distinguishable from five-year longevity pay steps only by the fact that they were based on continuous cumulative service rather than total cumulative service. The Act of August 5, 1854, ch. 268, §1, 10 Stat. 583, 586 (1854), authorized the same additional pay for enlisted Marines. The Act of March 2, 1855, ch. 136, §2, 10 Stat. 627 (1855), established what was in effect a reenlistment bonus equal to three months' pay for Navy enlisted personnel who had been honorably discharged and who had reenlisted within three months of discharge. Referred to again as a "bounty for reenlistment," the "bounty" was in fact a lump-sum bonus that gave Navy enlisted personnel three months' additional pay for reenlisting no matter whether they reenlisted immediately after being honorably discharged or waited three months before reenlisting.[5]

Until 1908, the Navy remained the only service with lump-sum reenlistment-bonus authority. The Act of March 3, 1899, ch. 413, §16, 30 Stat. 1004, 1008 (1899), however, modified the Navy's bonus provision by changing the length of reenlistment required for eligibility from three years to four years and by increasing the amount of the bonus from three months' to four months' pay. In addition, the Act of March 3, 1899, ch. 413, *id*., established a Navy "continuous-service pay" that, conceptually, was the same as the Army and Marine Corps "bounty for reenlistment." The Navy item provided a $1.36 monthly addition to regular pay for each continuous reenlistment.

The Act of May 11, 1908 (Army Appropriation Act of 1909), ch. 163, Pub. L. No. 60-112, 35 Stat. 106, 109–10 (1908), authorized a lump-sum bonus of three months' pay for Army privates, musicians, and trumpeters who entered a first reenlistment as well as a "continuous-service pay" increase. This authority was expanded by the Act of June 4, 1920 (National Defense Act Amendments of 1920), ch. 227, Pub. L. No. 66-242, §27, 41 Stat. 759, 775 (1920), which fixed the Army term of reenlistment at three years, removed the grade and first-reenlistment restrictions applying to the bonus under the Act of May 11, 1908, ch. 163, *id*., and provided a lump-sum bonus of $90 for all reenlistments.[6] The National Defense Act Amendments of 1920, ch. 227, *id*., §4, 41 Stat. 761, also repealed the "bounty for reenlistment" that had been in effect since 1854 and in its place established a "continuous-service pay" of 10 percent of enlisted base pay for each five years of consecutive service, up to a maximum of 40 percent. This Army provision also applied to Marine Corps enlisted personnel because of a statute that linked the pay of those two services.

A second Act of June 4, 1920 (Navy Appropriation Act of 1921), ch. 228, Pub. L. No. 66-243, §7, 41 Stat. 812, 836 (1920), fixed the term of reenlistment in the Navy and Marine Corps as two, three, or four years, and authorized a concomitant reenlistment bonus of two, three, or four months' pay, respectively. Because this law specifically covered the Marine Corps, the bonus provisions for that service were governed by it rather than by the general statute linking Army and Marine Corps pay.

In summary, as of 1920 Navy personnel were entitled to a reenlistment bonus of two, three, or four months' pay and to "continuous-service pay" of $1.36 per month for each consecutive reenlistment; Army personnel were entitled to a reenlistment bonus of $90 and to "continuous-service pay" of 10 percent of base pay for each five years of consecutive service; and Marine Corps personnel were entitled to the Navy reenlistment bonus but the Army "continuous-service pay."

The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §9 (Army and Marine Corps) and §10 (Navy), 42 Stat. 625, 629–30 (1922), brought a degree of order, but not uniformity, to this chaotic situation. It established a service-wide form of reenlistment bonus called, arguably misleadingly, an "enlistment allowance." The "enlistment allowance," though payable only upon

[5] Although referred to as a "bounty for reenlistment," the payment could be analogized to a lump-sum leave payment—equal to three months' pay—that was payable only to honorably discharged Navy enlisted personnel who reenlisted within three months of being discharged.

[6] *Cf.* Act of June 4, 1920 (National Defense Act Amendments of 1920), ch. 227, Pub. L. No. 66-242, §4, 41 Stat. 759, 761 (1920).

reenlistment, was computed by multiplying the number of years served in the term of enlistment from which last discharged by $50 for members of the first three grades,[7] and by $25 for members of other grades.[8] The Navy bonus could not exceed $200 for members of the first three grades, $100 for members of other grades, but no ceiling was placed on Army or Marine Corps bonuses. Additional pay for consecutive service was displaced by additional pay based on length of service, without regard to continuity. Terminologically, "continuous service pay" was replaced by "permanent addition[s] to pay." Here, too, the Navy provision was slightly different from the other services. Navy enlisted personnel were entitled to an additional 10 percent of base pay upon completion of four years of service and to a further 5 percent for each subsequent four years of service, not to exceed a total of 25 percent. Army and Marine Corps enlisted personnel were entitled to a straight 5 percent addition for each four years of service, not to exceed 25 percent. The evolution of this pay from a "bounty for reenlistment," to a "continuous-service pay," to a "permanent addition to pay" completed its transformation from a special pay specifically intended as a reenlistment inducement to a regular pay that recognized and rewarded the value of experience.

Payment of reenlistment bonuses was suspended during the depression years, from July 1, 1933, through June 30, 1939. The Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §10, 56 Stat. 359, 364 (1942), effectively re-adopted the reenlistment-bonus provisions of the Joint Service Pay Readjustment Act of 1922, ch. 212, *id*., as applied to members of the Army and Marine Corps. Under the Pay Readjustment Act of 1942, ch. 413, *id*., §10, 56 Stat. 364, enlisted personnel in the first three grades of all services who reenlisted were entitled to an "enlistment allowance" computed by multiplying $50 by the "number of years served in the enlistment period from which he has last been discharged," while enlisted personnel in other grades were entitled to an "enlistment allowance" computed by multiplying $25 by the "number of years served...." The Armed Forces Voluntary Recruitment Act of 1945, ch. 393, Pub. L. No. 79-190, §8, 59 Stat. 538, 541 (1945), provided that the bonus be computed for all grades by multiplying the number of years served in the term of enlistment from which last discharged by $50, instead of by $50 for the first three grades and $25 for the other four grades. There was, however, no fundamental change to the bonus system between 1922 and 1949.

The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §207, 63 Stat. 802, 811–12 (1949), restructured the reenlistment bonus so that it would more effectively serve the purpose for which it was intended by (1) tying the amount of the bonus to the number of years to be served rather than to service already performed, (2) increasing the bonus in proportion to the length of the reenlistment period so as to encourage longer reenlistments, and (3) placing a career dollar and number limit on bonuses so that no bonus would be payable for the last few years of service. Specifically, the Career Compensation Act of 1949, ch. 681, *id*., §207(a), 63 Stat. 811, authorized a bonus of $40, $90, $160, $250, or $360 for a reenlistment of two, three, four, five, or six years, respectively. The bonus could not be paid for obligated service in excess of 30 years and was limited to a cumulative career total of $1,440. No more than four bonuses could be paid to any one person.[9]

The reenlistment-bonus provisions adopted in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §207, 63 Stat. 802, 811–12 (1949), derived from recommendations made to the Secretary of Defense by the Advisory Commission on Service Pay, the so-called Hook Commission, which undertook the first comprehensive study of military compensation since 1908. In making its recommendation on

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[7] Present pay grades E-7, E-6, and E-5.

[8] Present pay grades E-4, E-3, E-2, and E-1.

[9] The reenlistment-bonus provisions of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §207, 63 Stat. 802, 811–12 (1949), were initially classified to 37 U.S.C. §239. See 37 U.S.C. §239 (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the reenlistment-bonus provisions deriving from the Career Compensation Act of 1949, as amended, were codified at 37 U.S.C. §308.

reenlistment bonuses to the Secretary of Defense, which were later adopted essentially without change by Congress, the Hook Commission stated:

> Today, and for some time, a special payment has been offered to encourage men in the enlisted grades to renew their terms of service regularly and so build a career of continuing duty. The Commission favors the continuance of such an inducement.
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> The present system, giving a man a bonus of $50 per year for the number of years of the preceding enlistment, does not adequately serve the purpose for which it was intended. True, it is some incentive to reenlist, but it is essentially based on the service performed, rather than on the service promised. The latter principle is clearly the more logical and should be incorporated to render the bonus more effective.
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> To correct this situation, the Commission, concurring with the Services, suggests, first, that the bonus should be based on the number of years for which a man is reenlisting; second, it should be increased in proportion to the length of his reenlistment period; third, it should require a man's reenlistment within a reasonable time in order to insure continuous service; and fourth, the number of bonuses which a man may draw should be limited so that there will be no bonus for a reenlistment to complete the last few years of service.[10]

By 1954 Congress had, on the basis of experience with the reenlistment-bonus program under the Career Compensation Act of 1949, ch. 681, *id*., come to question the efficacy of the program for the purposes intended and concluded that the effectiveness of the program could be improved by directing more of the available bonus dollars into first-term reenlistments and progressively less into second and subsequent reenlistments. Accordingly, the Act of July 16, 1954, ch. 535, Pub. L. No. 83-506, §2, 68 Stat. 488, 488–89 (1954), modified the program and authorized a bonus of one month's basic pay for each year of a first reenlistment; two-thirds of one month's basic pay for each year of a second reenlistment; one-third of one month's basic pay for each year of a third reenlistment; and one-sixth of one month's basic pay for each year of a fourth or subsequent reenlistment. It also provided that the bonus could not be paid for obligated service in excess of 20 years, although it did raise the cumulative career ceiling on bonuses from $1,440 to $2,000. This "regular" reenlistment bonus remained in full operation until the Armed Forces Enlisted Personnel Bonus Revision Act of 1974, Pub. L. No. 93-277, §2(1), 88 Stat. 119, 119–20 (1974), provided for its gradual elimination starting June 1, 1974.[11] Members on active duty on June 1, 1974, who would have been eligible at the end of their current or subsequent enlistments for the bonus as it existed on May 31, 1974, continued to be eligible.

The history of the current "selective reenlistment bonus" program can be traced to 1965, when the military services began to experience increasing problems in first-term retention and career staffing in a number of technical, high-training-cost skills. In addressing the problem, the Department of Defense recommended the creation of a flexible reenlistment-bonus program that could be tailored to fit particular skill-retention requirements and that could be changed as those requirements changed. Congress responded favorably to the recommendation and established the "variable reenlistment bonus" (VRB) program in the Act of August 21, 1965, Pub. L. No. 89-132, §3, 79 Stat. 545, 547 (1965). The regular reenlistment-bonus authority was not disturbed; it continued side-by-side with the VRB program. The Act of August 21, 1965, Pub. L. No. 89-132, *id*., permitted the payment of an additional sum of not more than four times the amount of the regular reenlistment bonus to a member who was designated as having a critical military skill and

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[10] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 30–31.

[11] See, e.g., S. Rep. No. 93-659 (Committee on Armed Services), at 3, 11–12, accompanying S. 2771, 93d Cong., 1st sess. (1973); H.R. Rep. No. 93-857 (Committee on Armed Services), at 3–6, 12, accompanying S. 2771, 93d Cong., 2d sess. (1974); and H.R. Rep. No. 93-985 (Committee of Conference), at 3–4, accompanying S. 2771, 93d Cong., 2d sess. (1974).

who was reenlisting for the first time. In practice, four VRB award levels were designated based mainly on first-term training costs and career manning shortages in critical military skills. A qualified member having a skill at the highest level of criticality was authorized a VRB payment equal to four times the amount of the member's regular reenlistment bonus, in addition to the regular bonus; one having a skill at the next highest level was authorized a VRB of three times the amount of the regular bonus, in addition to the regular bonus; and so forth. Because of the $2,000 ceiling on regular bonuses, the largest potential VRB award was $8,000. The VRB program was terminated by the Armed Forces Enlisted Personnel Bonus Revision Act of 1974, Pub. L. No. 93-277, 88 Stat. 119 (1974), covered more fully below. However, a member who had reenlisted under the program before June 1, 1974, retained eligibility for any unpaid VRB installments as they became due.

Over the years, various deficiencies were noted in both the regular reenlistment-bonus and VRB programs. The regular bonus had to be paid to any enlisted member accepted for reenlistment regardless of the criticality of the member's skill. It was estimated that, as a result, more than $43 million was spent unnecessarily in fiscal years 1972 and 1973 to make payments to reenlistees serving in skills where sufficient retention would have been achieved without a monetary incentive to reenlist.[12] VRB, on the other hand, was paid only for first reenlistments and was thus not responsive to retention problems occurring in critical skills at the second and later reenlistment points. To correct these deficiencies, the Department of Defense proposed the elimination of the regular bonus for new entrants and the expansion of VRB into a bonus that could be paid at any problem decision point during a member's first 10 years of service.

The essence of the Department of Defense proposal was adopted in the Armed Forces Enlisted Personnel Bonus Revision Act of 1974, Pub. L. No. 93-277, §2(1), 88 Stat. 119, 119–20 (1974), the source of present "selective reenlistment bonus" (SRB) authority. The act provided that SRB could be paid in an amount not to exceed $15,000 to a member who had completed at least 21 months but not more than 10 years of active duty, who was designated as having a critical skill, and who reenlisted or extended enlistment for at least three years. For computation purposes, the act specified that obligated service in excess of 12 years could not be used in determining the amount of SRB payable for any enlistment that entailed obligated service extending beyond such period. SRB authority under the act was programmed to terminate June 30, 1977. This termination date was subsequently extended, first to September 30, 1978, by the Act of June 29, 1977, Pub. L. No. 95-57, §1(b), 91 Stat. 253 (1977), and then to September 30, 1980, by the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §802(b), 92 Stat. 1611, 1619 (1978). Retention and staffing problems underlay both extensions.

In 1980 the SRB eligibility criteria were broadened by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §804, 94 Stat. 1077, 1092 (1980), to allow members with up to 14 years of active service to participate. At the same time, the 1981 authorization act provided that obligated service in excess of 16 years could not be used in computing SRB payments under 37 U.S.C. §308. Concomitantly, the maximum bonus payable was increased from $15,000 to $20,000, although the House and Senate conferees directed that the $20,000 payment should be reserved for enlisted personnel in nuclear skills, whereas $16,000 was the maximum that should be available to other personnel.[13] Finally, the termination date for the SRB program was extended to September 30, 1982.

The Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §3(f), 94 Stat. 3359, 3364 (1980), further amended 37 U.S.C. §308 to provide that an enlisted member who extended obligated service, whether by actual reenlistment or by an extension of an existing enlistment, in order to retain eligibility for continuous submarine duty incentive pay, as adopted under the act, would not lose, or have adversely affected, eligibility for a reenlistment bonus. In essence, under this amendment, an affected

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[12] *Increased Bonus and Special Pay for Military Physicians and Expansion of Enlistment Bonus and Revision of Reenlistment Bonus Authorities: Hearings on S. 2770 and S. 2771 before the Senate Committee on Armed Services*, 93d Cong., 1st sess., 13– 14 (1973).

[13] H.R. Rep. No. 96-1222 (Committee of Conference), at 96, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).

enlisted member could reenlist before the expiration of an existing term of obligated service and receive credit for such unexpired portion of service in computing the amount of any SRB entitlement. As explained in the relevant congressional report, the reason for this special consideration for enlisted submariners was the "large shortfall in senior [Naval petty] officers" and the "requirement for a significantly large percentage of the submarine enlisted crew to be in these senior grades."[14]

The Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §117(a), 95 Stat. 989, 996 (1981), further amended the SRB provisions to authorize any enlisted member to reenlist before the expiration of an extension of an existing enlistment and to use up to two years of the unexpired extension for which no bonus had been paid in determining the member's eligibility for, and the amount of, a reenlistment bonus under the SRB program.[15]

The September 30, 1982, termination date for the SRB program has been extended a number of times: first, to December 17, 1982, by the Act of October 2, 1982, Pub. L. No. 97-276, §131, 96 Stat. 1186, 1197 (1982); second, to March 31, 1983, by the Act of December 21, 1982, Pub. L. No. 97-377, §798, 96 Stat. 1830, 1865 (1982); third, to September 30, 1984, by the Act of March 30, 1983, Pub. L. No. 98-14, §1, 97 Stat. 55 (1983); fourth, to September 30, 1987, by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §621(a), 98 Stat. 2492, 2540 (1984); fifth, to September 30, 1992, by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(a), 101 Stat. 1019, 1104 (1987);[16] sixth, to September 30, 1993, by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §612(a), 106 Stat. 2315, 2421 (1992); seventh, to September 30, 1995, by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §613(b), 107 Stat. 1547, 1681 (1993); eighth, to September 30, 1996, by the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §613(b), 108 Stat. 2663, 2783 (1994); and to September 30, 1997, by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §613(b), 110 Stat. 186, 359 (1996). The annual authorization acts for fiscal years 1997 through 2009 made similar one-year extensions in the program.

Concern over retention and manning problems underlay these extensions, although in explanation of several recent extensions the House and Senate Armed Services Committees have merely noted that they were "recommend[ing]" an extension.[17] As the House Armed Services Committee noted in connection with

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[14] S. Rep. No. 96-1051 (Committee on Armed Services), at 3, accompanying H.R. 7626, 96th Cong,, 2d sess. (1980). Also see *id*., at 4.

[15] See H.R. Rep. No. 97-109 (Committee on Armed Services), at 12, accompanying H.R. 3380, and H.R. Rep. No. 97-265 (Committee of Conference), at 23–24, accompanying S.1181, 97th Cong., 1st sess. (1981).

[16] The National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, 101 Stat. 1019 (1987), was enacted on December 4, 1987, something over two months after the selective reenlistment bonus authority of the unamended 37 U.S.C. §308 had expired—namely, on October 1, 1987. Section 626(c) of the 1988/1989 Authorization Act, Pub. L. No. 100-180, *id*., §626(c), 101 Stat. 1104, provided special coverage for persons who might have taken advantage of the selective reenlistment-bonus program during the period of lapsed authority but for the fact that the authority had in fact expired.

[17] With respect to the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §621(a), 98 Stat. 2492, 2540 (1984), see H.R. Rep. No. 98-691 (Committee on Armed Services), at 257, accompanying H.R. 5167, 98th Cong., 2d sess. (1984); S. Rep. No. 98-500 (Committee on Armed Services), at 208, accompanying S. 2723, 98th Cong., 2d sess. (1984); and H.R. Rep. No. 98-1080 (Committee of Conference), at 297, accompanying H.R. 5167, 98th Cong., 2d sess. (1984). With respect to the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(a), 101 Stat. 1019, 1104 (1987), see H.R. Rep. No. 100-58 (Committee on Armed Services), at 205, accompanying H.R. 1748, 100th Cong., 1st sess. (1987); *cf*., H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). With respect to the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §612(a), 106 Stat. 2315, 2421 (1992), see H.R. Rep. No. 102-527 (Committee on Armed Services), at 243, accompanying H.R. 5006, and S. Rep. No. 102-352 (Committee on Armed Services), at 208, accompanying S. 3114, 102d Cong., 2d sess. (1992); *cf*. H.R. Rep. No. 102-966 (Committee of Conference), at 713, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). With respect to the National Defense

the program extension authority made by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, 101 Stat. 1019 (1987):

> The enlistment [also covered by the extension] and selective reenlistment bonus programs have proven invaluable in recruiting and retaining high quality individuals for all components of the Total Force. The committee believes that these programs have permitted the services to selectively target their resources to meet service-unique accession and retention needs in a judicious and cost effective manner.[18]

In addition to extending the termination date for the SRB program to September 30, 1987, as set out immediately above, the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §621(b), 98 Stat. 2492, 2540 (1984), also increased the maximum bonus payable under the program from $20,000 to $30,000, although it provided that not more than 10 percent of the bonuses payable in any fiscal year could exceed $20,000. In explanation of the increase, the Committee of Conference[19] stated as follows:

> The Senate amendment also contained a provision (§1028) that would remove the present statutory ceiling of $20,000 on the selective reenlistment bonus. However, under the Senate provision, no more than 10 percent of the selective reenlistment bonuses paid during any fiscal year could exceed $25,000.
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> The House bill contained no similar provision.
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> The House recedes with an amendment increasing the current $20,000 ceiling for the selective reenlistment bonus to $30,000. However, no more than 10 percent of the selective reenlistment bonuses paid during any fiscal year could exceed $20,000.[20]

Authorization Act for Fiscal Year 1993, Pub. L. No. 103-160, §613(b), 107 Stat. 1547, 1681 (1993), see H.R. Rep. No. 103-200 (Committee on Armed Services), at 294, accompanying H.R. 2401, and S. Rep. No. 103-112 (Committee on Armed Services), at 152, accompanying S. 1298, 103d Cong., 1st sess. (1993); *cf.* H.R. Rep. No. 103-357 (Committee of Conference), at 683, accompanying H.R. 2401, 103d Cong., 1st sess. (1994). With respect to the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §613(b), 108 Stat. 2663, 2783 (1994), see S. Rep. No. 103-282 (Committee on Armed Services), at 193, accompanying S. 2182, 103d Cong., 2d sess. (1994); *cf.* H.R. Rep. No. 103-701 (Committee of Conference), at 713, accompanying S. 2182, 103d Cong., 2d sess. (1994). With respect to the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §613(b), 110 Stat. 186, 359 (1996), see S. Rep. No. 104-112 (Committee on Armed Services), at 254, accompanying S. 1026, 104th Cong., 1st sess. (1995); *cf.* H.R. Rep. No. 104-131 (Committee on National Security), at 231, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), H.R. Rep. No. 104-406 (Committee of Conference), at 815–816, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 805–6, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[18] H.R. Rep. No. 100-58 (Committee on Armed Services), at 205, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). (With respect to the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(a), 101 Stat. 1019, 1104 (1987), the House Armed Services Committee recommended a five-year extension of selective reenlistment bonus authority, to September 30, 1992. See H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987), and H.R. Rep. No. 100-58 (Committee on Armed Services), at 205, 100th Cong., 1st sess. (1987). But the Senate Armed Services Committee recommended only a two-year extension. See H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). The five-year extension initially recommended by the House Armed Services Committee was agreed to in conference. See H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).)

[19] Although both the House and Senate Armed Services Committees issued reports on the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §621(b), 98 Stat. 2492, 2540 (1984), neither the House report (H.R. Rep. No. 98-691 (Committee on Armed Services), accompanying H.R. 5167, 98th Cong., 2d sess. (1984)) nor the Senate report (S. Rep. No. 98-500 (Committee on Armed Services), accompanying S. 2723, 98th Cong., 2d sess. (1984)) dealt with the increase in the maximum SRB payment authorized. (The provision effecting the increase came from a Senate floor amendment.)

[20] H.R. Rep. No. 98-1080 (Committee of Conference), at 297, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

In adopting the increase in the maximum SRB authorized, Congress was implicitly acceding to a portion of the recommendations of the Fifth Quadrennial Review of Military Compensation.[21] In 1984 the Fifth Quadrennial Review recommended that the "dollar ceiling should be removed; ... eliminate bonus cap; ... lift pay cap."[22] Although Congress did not completely remove the "dollar ceiling," it did raise the "ceiling" by 50 percent.

In the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §631, 99 Stat. 583, 643 (1985), Congress further amended the SRB program to require that at least 75 percent of the bonus payable for reenlistment be paid "in a lump sum at the beginning of the period for which the bonus is paid, with any remaining amount paid in equal annual installments."[23] In explanation of this requirement, the House Armed Services Committee noted:

> Currently, a service member eligible to receive a selective reenlistment bonus may receive a maximum of 50 percent of the selective reenlistment bonus upon reenlisting and the remaining 50 percent in installment payments during the reenlistment period. Although payment of the full bonus in a lump-sum is authorized, the Committee on Appropriations has limited the available funding to 50 percent. In order to provide a greater up -front incentive to reenlist, the committee recommends providing 75 percent of the bonus upon reenlistment and the remaining 25 percent in installment payments during the reenlistment period.
>
> Providing a larger up-front monetary incentive to reenlist makes sense from the member's, as well as from the government's, standpoint. From the member's point of view, a larger cash payment at the beginning of the reenlistment period would provide a more attractive reason to reenlist as well as the means to place a down payment on a home, to pay tuition bills, or to make necessary family purchases. From the government's point of view, the initiative would increase the service's ability to retain high-quality individuals to fill critical specialties at no additional (and perhaps less) cost.[24]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., specified that the 75-percent-lump-sum requirement was to become effective October 1, 1986, the first day of fiscal year 1987.[25]

Notwithstanding the statutory requirement of 37 U.S.C. §308(b)(1) for 75 percent of the selective reenlistment bonus to be made in an up-front lump sum, the National Defense Authorization Act for 1987, Pub. L. No. 99-661, §663(a), 100 Stat. 3816, 3894 (1986), in a cost-reduction and -containment effort, limited the initial lump-sum payment to 50 percent for fiscal year 1987. The National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §625(a), 101 Stat. 1019, 1104

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[21] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001.

[22] *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-11. See also *Report of the Fifth Quadrennial Review of Military Compensation, Volume III: Special and Incentive Pays*, November 1983, 688 (Finding No. 2) and 689 (Recommendation No. B.2).

[23] The amendment made to the SRB program by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §631, 99 Stat. 583, 643 (1985), is codified at 37 U.S.C. §308(b)(1).

[24] H.R. Rep. No. 99-81 (Committee on Armed Services), at 229–30, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[25] Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §631(b), 99 Stat. 583, 643 (1985). See 37 U.S.C. §308 note. Also see H.R. Rep. No. 99-235 (Committee of Conference), at 430–31, and S. Rep. No. 99-118 (Committee of Conference), at 430–31, accompanying S. 1160, 99th Cong., 1st sess. (1985).

(1987), amended the 75-percent up-front lump-sum requirement to provide that the initial installment could not be less than 50 percent. As explained by the House Armed Services Committee:

> The fiscal year 1986 Defense Authorization Act ... provided that not less than 75 percent of a selective reenlistment bonus would be paid to an individual at the beginning of the period covered by the bonus. (The payment of the full bonus in a lump-sum was already authorized, but the Committee on Appropriations had limited the available funding to 50 percent.) Although Congress authorized this change in order to provide a greater up-front incentive for service members to reenlist, fiscal restraints prevented the implementation of the 75 percent lump-sum reenlistment bonus provision.
>
> The committee continues to support the need for a greater up-front incentive to reenlist; however, current fiscal realities continue to make such bonus payments infeasible. Accordingly, the committee recommends prohibiting the payment of more than 50 percent up-front lump sum reenlistment bonus during fiscal years 1988 and 1989.[26]

As ultimately enacted, the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §625(a), 101 Stat. 1019, 1104 (1987), merely provided that the amount of an initial installment payment of the selective reenlistment bonus could not be less than 50 percent of the amount of the total bonus—without any special additional restrictions for fiscal years 1988 and 1989.[27]

The National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §611(a), 103 Stat. 1352, 1445 (1989), amended the preexisting selective reenlistment bonus in two particulars. First, it increased the maximum payment from $30,000 to $45,000; second, it increased the multiplier used in determining the maximum amount of a bonus from six months of basic pay multiplied by the number of years of additional obligated service to 10 months of basic pay multiplied by the number of years of additional obligated service. Under this amendment, the maximum amount of a selective reenlistment bonus was 10 months of basic pay multiplied by the number of years of additional obligated service or $45,000, whichever is less. As indicated in the relevant congressional report, the increase in the ceiling on the selective reenlistment bonus and the change in the method for determining the amount of a particular payment were made at the urging of the Department of Defense:

> The Department of Defense requested authority to increase the ceiling on selective reenlistment bonuses for enlisted personnel. The current ceiling, provided for in section 308(a) of title 37, United States Code, is six months of basic pay multiplied by the number of years of additional obligated service, not to exceed six years or $30,000, whichever is

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[26] H.R. Rep. No. 100-58 (Committee on Armed Services), at 206–7, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). See S. Rep. No. 100-57 (Committee on Armed Services), at 147, accompanying S. 1174, 100th Cong., 1st sess. (1987); *cf.*, H.R. Rep. No. 100-446 (Committee of Conference), at 644, accompanying H.R. 1748, 100th Cong., 1st sess. (1987).

[27] The 50 percent upper limit on initial installments of selective reenlistment-bonus payments has been effectively continued under successive appropriations acts—for fiscal year 1988, by the Act of December 22, 1987 (Continuing Appropriations, 1988), Pub. L. No. 100-202, §8073, 101 Stat. 1329, 1329–1374 (1987); for fiscal year 1989, by the Department of Defense Appropriations Act, 1989, Pub. L. No. 100-463, §8060, 102 Stat. 2270, 2270–2272 (1988); for fiscal year 1990, by the Department of Defense Appropriations Act, 1990, Pub. L. No. 101-165, §9083, 103 Stat. 1121, 1147 (1989); for fiscal year 1991, by the Department of Defense Appropriations Act, 1991, Pub. L. No. 101-511, §8061, 104 Stat. 1856, 1888 (1990); for fiscal year 1992, by the Department of Defense Appropriations Act, 1992, Pub. L. No. 102-172, §8054, 105 Stat. 1150, 1184 (1991); for fiscal year 1993, by the Department of Defense Appropriations Act, 1993, Pub. L. No. 102-396, §9052, 106 Stat. 1876, 1914 (1992); for fiscal year 1994, by the Department of Defense Appropriations Act, 1994, Pub. L. No. 103-139, §8039, 107 Stat. 1418, 1449 (1993); for fiscal year 1995, by the Department of Defense Appropriations Act, 1995, Pub. L. No. 103-335, §8035, 108 Stat. 2599, 2626 (1994); and for fiscal year 1996, by the Department of Defense Appropriations Act, 1996, Pub. L. No. 104-61, §8030, 109 Stat. 636, 658 (1996).

> less. The Department of Defense requested that the six months in the formula be increased to 10 months and the limit be increased to $45,000, whichever is less.
>
> The committee recommends ... approval of the request. The committee expects this increased authority to be used only to improve the retention of enlisted nuclear personnel in the Navy.[28]

The National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §615(a), 104 Stat. 1485, 1578 (1990), gave the Secretary of Defense authority to terminate installment payments of the selective reenlistment bonus to members who, without fault on their part, failed to complete enlistments for which they were continuing to receive SRB installment payments.

Preexisting law had effectively provided that members who voluntarily or because of misconduct did not complete enlistments for which they were receiving SRB payments or who were determined not to be technically qualified in the skill for which they were receiving SRB payments and who failed to complete enlistments for which they were receiving SRB payments were required to refund the percentage of the bonus that had, as of the date of their separation, been unearned. Members who were disqualified from the skill for which they were receiving or had received SRB payments because of injury, illness, or other impairment not the result of their own misconduct were exempted from the refund requirement. The National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, *id*., §615(a), 104 Stat. 1578, thus gave the Department of Defense an option other than having to continue payments and require a refund: now, the Department of Defense may simply discontinue payments. The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 652 (1999), raised the maximum payment from $45,000 to $60,000 and the multiplier used in determining the maximum bonus amount from 10 months of basic pay to 15.

The special pay for nuclear-trained and -qualified enlisted members, codified at 37 U.S.C. §312a, established by the Act of October 27, 1972, Pub. L. No. 92-581, §1(3), 86 Stat. 1277, 1277–1278 (1972), falls into the reenlistment-bonus category. By analogy to what the Senate Committee on Armed Services characterized as the "very successful" special continuation pay program for nuclear-trained and -qualified officers,[29] the Act of October 27, 1972, Pub. L. No. 92-581, *id*., authorized a payment of up to $15,000 to enlisted members "qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants" who reenlisted between their sixth and tenth year of active duty for at least two additional years. No payments were authorized under the program after June 30, 1975, 37 U.S.C. §312a(e) as added by the Act of October 27, 1972, Pub. L. No. 92-581, *id*., §1(3), although the statutory authority has never been repealed. Because the problem that led to the adoption of a special pay for nuclear-trained and -qualified enlisted personnel was so similar to the problems addressed by the selective reenlistment bonus discussed above, and because it was felt that the latter program could deal with the

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[28] S. Rep. No. 100-81 (Committee on Armed Services), at 179, accompanying S. 1352, 101st Cong., 1st sess. (1989). The House, not having proposed any similar increase in the selective reenlistment bonus, acceded to the Senate recommendation in conference. See, H.R. Rep. No. 101-331 (Committee of Conference), at 585, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

[29] As noted by the Senate Committee on Armed Services in explanation of its adoption of the special pay for nuclear-trained-and-qualified enlisted members:

> The bill provides a special continuation pay for nuclear-qualified and experienced enlisted personnel who reenlist and continue to contribute their significant experience and technical expertise by serving on board the surface ships and submarines of the nuclear-powered fleet. It also would extend for 2 years the very successful officers continuation pay for officers serving in the nuclear submarine fleet and make that pay available to officers who are on active duty in connection with supervision, operation, and maintenance of naval nuclear power plants.

S. Rep. No. 92-1307 (Committee on Armed Services), at 2, accompanying H.R. 16925, 92d Cong., 2d sess. (1972).

shortage of nuclear-trained and -qualified enlisted personnel, the special pay for such personnel has been effectively subsumed in the selective reenlistment bonus.[30]

A number of regulations have been adopted over the years by the Secretary of Defense for implementing SRB payment authority. First, three SRB eligibility "zones" were established: Zone A originally was composed of reenlistments falling between 21 months and six years of active duty; then the National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65 reduced the minimum continuous service time to 17 months. Zone B consisted of reenlistments falling between six and 10 years of active duty. Zone C consisted of reenlistments falling between 10 and 14 years of active duty.[31] Under these zones, a member completing between 17 months of continuous and six years of total active duty can qualify for a Zone A SRB; a member completing between six and 10 years of continuous active duty can, whether or not the member received a Zone A bonus, qualify for a Zone B SRB; and a member completing between 10 and 14 years of continuous active duty can, whether or not the member received a Zone A or B bonus, qualify for a Zone CSRB.[32] In order to qualify for an SRB payment for any zone, the member must possess a "critical" skill[33] and reenlist or extend an existing enlistment for at least three years. In addition, for a Zone A SRB the reenlistment or extension must, when combined with the member's existing active service time, add up to at least six years of service; for Zone B, to at least 10 years of service; and for Zone C, to at least 14 years of service.[34]

Second, to be eligible for either a Zone A, a Zone B, or a Zone C SRB payment, a member must be in pay grade E-3 or higher[35] and must reenlist (or extend an existing enlistment) within three months of discharge or release from active duty.[36] With respect to the actual computation of SRB payments, six levels of skill criticality have been authorized for the military services.[37] The bonus for any given member is computed by multiplying the member's designated skill criticality level, or "multiple," by the member's monthly basic pay, and multiplying that product by the number of the member's years, including fractional

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[30] Presumably, the authority for special pay for nuclear-trained and -qualified enlisted personnel was not extended past June 30, 1975, because of the intervening adoption of selective reenlistment-bonus authority in the Armed Forces Enlisted Personnel Bonus Revision Act of 1974, Pub. L. No. 93-277, §2(1), 88 Stat. 119, 119–20 (1974), discussed above.

[31] Zone A - "at least 21 months of continuous active duty ... but not more than 6 years of active duty on the date of reenlistment or beginning of an extension of enlistment"; Zone B - "at least 6 but not more than 10 years of active duty on the date ..."; and Zone C - "at least 10 but not more than 14 years of active duty on the date...." *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶10911(b), (c), and (d), respectively.

[32] No enlisted member of an armed force may receive more than one SRB payment for an enlistment within any one zone. *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶10911(b), (c), and (d). Also see *id*., at ¶10912(b)(4).

[33] That is, the member must be "qualified in a military specialty designated by the Secretary of the [member's] military department ... for award of the SRB." *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶10911(a)(1).

[34] *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶10911(b)(2) [Zone A]; (c)(2) [Zone B]; and (d)(2) [Zone C].

[35] *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶10911(a)(2).

[36] *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶10911(a)(3).

[37] *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶10912 and (b)(1).

parts thereof, of additional active obligated service.[38] Obligated service in excess of 16 years cannot be used in the computation.[39]

The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 2045 (2006), raised the maximum selective reserve reenlistment bonus from $60,000 to $90,000. The bonus remained in effect at this level through FY 2009.

On January 28, 2008, the National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 163, established the consolidation of special pay, incentive pay, and bonus authorities under subchapter II, chapter 5 of title 37, U.S. Code. Under this subchapter, special pays enlisted members were consolidated under section 331, title 37, U.S. Code, "General bonus authority for enlisted members." Section 331, authorizes accession, affiliation, and retention bonuses for both active and reserve enlisted members, as well as, transfer bonuses for enlisted members transferring from another armed force or from a reserve component to the regular component or vice versa. The Military Services will no longer be authorized to offer bonuses under 37 U.S.C. §308, after January 28, 2018.

Under section 331, reenlistment and extension bonuses amounts were increase to a maximum of $30,000 for each year of obligated service in a regular component and $15,000 for each year of obligated service in a reserve component. The authority to pay the selective reenlistment bonus has been extended in one-year increments through December 31, 2016.[40]

Current rate of pay authorized: The maximum selective reenlistment bonus that may currently be paid to qualifying enlisted members is $90,000. Subsection (b) of U.S. Code § 308 stipulates that the initial payment be not less than 50 percent of the total bonus amount, with the remainder to be paid in equal annual installments over the remainder of the reenlistment period.

Cost: For the cost of reenlistment bonuses since the 1970s, see tables II-32A–D, below.

Table II-32A. Selective Reenlistment Bonus, 1975–2016

Fiscal Year	Total Personnel	Cost ($000)
1975	47,804	126,213
1976	49,035	63,939
1977	78,729	103,783
1978	116,955	149,813
1979	145,248	242,356
1980	115,843	296,300
1981	130,768	598,631
1982	93,895	490,932
1983	130,168	354,966
1984	186,131	406,574
1985	238,012	486,911
1986	268,005	554,541
1987	285,832	508,614

[38] Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay, Volume 7A, DOD 7000.14-R, ¶10912(b)(1).

[39] That is, while the computation of the amount of an SRB payment is based, among other things, on the number of years involved in a reenlistment (or an extension of an existing enlistment), obligated service in excess of 16 years may not be taken into account in the computation. *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, 10912(b)(2).

[40] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 615, 129 Stat. 726, 839 (2015).

Fiscal Year	Total Personnel	Cost ($000)
1988	272,277	468,336
1989	266,215	498,451
1990	260,518	484,303
1991	256,888	462,091
1992	219,548	384,762
1993	191,748	344,665
1994	141,454	250,458
1995	126,656	246,597
1996	110,794	219,321
1997	97,343	234,852
1998	100,080	246,290
1999	115,914	340,877
2000	145,539	499,756
2001	188,749	681,185
2002	204,686	738,539
2003	208,743	745,868
2004	214,675	768,135
2005	225,372	1,113,540
2006	219,281	1,307,457
2007	247,860	1,271,203
2008	205,597	1,619,786
2009	146,569	1,557,981
2010	113,235	896,167
2011	106,827	739,008
2012	100,602	822,880
2013	90,283	717,103
2014	77,710	614,493
2015	80,902	626,865
2016[1]	79,705	679,528

[1] Estimate.

Table II-32B. Variable Reenlistment Bonus, 1972–1979

Fiscal Year	Total Personnel	Cost ($000)
1972	89,441	$185,317
1973	79,804	182,716
1974	80,373	181,166
1975	56,703	94,553
1976	34,475	39,878
1977	22,984	26,125
1978	16,281	18,561
1979	4,669	5,629

Table II-32C. Regular Reenlistment Bonus, 1972–1985

Fiscal Year	Total Personnel	Cost ($000)
1972	137,251	$149,530
1973	149,900	157,258
1974	132,277	160,656
1975	94,890	101,694
1976	90,840	106,869
1977	66,439	83,470
1978	35,216	35,747
1979	18,055	16,853
1980	12,485	8,911
1981	5,320	3,460
1982	3,040	1,802
1983	150	117
1984	50	38
1985	50	38

Table-II-32D. Total Cost for all Reenlistment Bonus Programs, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	226,692	334,847
1973	229,704	339,974
1974	212,650	341,822
1975	199,397	322,460
1976	174,350	210,686
1977	168,152	213,378
1978	168,452	204,121
1979	167,972	264,838
1980	128,328	305,211
1981	136,088	602,091
1982	96,935	492,734
1983	130,318	355,083
1984	186,181	406,612
1985	238,062	486,949
1986	268,005	554,541
1987	285,832	508,614
1988	272,277	468,336
1989	266,215	498,451
1990	260,518	484,303
1991	256,888	462,091
1992	219,548	384,762
1993	191,748	344,665
1994	141,454	250,458
1995	126,656	246,597
1996	110,794	219,321
1997	97,343	234,852

Fiscal Year	Total Personnel	Cost ($000)
1998	100,080	246,290
1999	115,914	340,877
2000	145,539	499,756
2001	188,749	681,185
2002	204,686	738,539
2003	208,743	745,868
2004	214,675	768,135
2005	225,372	1,113,540
2006	219,281	1,307,457
2007	247,860	1,271,203
2008	205,597	1,619,786
2009	146,569	1,557,981
2010	113,235	896,167
2011	106,827	739,008
2012	100,602	822,880
2013	90,283	717,103
2014	77,710	614,493
2015	80,902	626,865
2016[1]	79,705	679,528

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.E.2.d.
Critical Skills Retention Bonus

Legislative Authority: 37 U.S.C. §323. (2000–2008), 37 U.S.C. §355 (2008–Present)[1]

Purpose: To provide an incentive for qualified enlisted and officer personnel with skills designated as critical to remain on active duty, extending the availability of those skills for application in key positions.

Background: In order to better ensure an ongoing, adequate number of personnel having skills critical to armed forces operations, Congress established the critical skills retention bonus in the National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-157 (2000). The skills for which such a bonus is paid are designated as critical by the Secretary of Defense or, in the case of the Coast Guard when it is not acting as a service of the Navy, the Secretary of Transportation. The critical skills retention bonus (CSRB), which applies to both enlisted and officer personnel, is offered to members with designated skills who reenlist, voluntarily extend enlistment, or agree to remain on active duty for a period of at least one year. In the case of officers, such a commitment is in the form of a written agreement to remain on duty for at least one year. Enlisted members reenlist or volunteer to extend their current enlistment for at least one year. The bonus under this provision can be received more than once, but the maximum total amount of the bonuses is $200,000.

Members who have completed 25 or more years of active duty, or who would complete that amount of active duty before the end of the bonus period, are not eligible. The bonus may be received in conjunction with another type of incentive bonus. The CSRB has been applied differently by the services and by types of skill. The Navy has applied it only to surface warfare officers and submarine support officers. In 2002 and 2003, the Air Force offered CSRB contracts of one to four years to officers in a variety of positions. However, since 2003 the Air Force has not applied the CSRB at all. The Army has expanded the range of enlisted skills designated for the CSRB. In fiscal year 2003, critical skills in the health professions were included temporarily in the CSRB program. However, when specific health profession bonuses were raised in 2004, critical skills in the health professions no longer were included under the CSRB program.

The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, Subtitle B, Sec. 640,119 Stat. 3302 (2006), extended a bonus, not to exceed $100,000, for the first time to personnel in an active status in a reserve component. It also included language that removed the total bonus payment cap of $200,000 (or $100,000 in the case of a reserve component officer) for officers' assigned duties as a health care professional, and expanded the bonus to service members who agree to accept an assignment to a unit designated as a high priority unit. The final significant change occurred concerning the wording of the repayment prevision. The paragraph previously read "If an officer who has entered into a written agreement under subsection (a) fails to complete the total period of active duty specified in the agreement, or an enlisted member who voluntarily or because of misconduct does not complete the term of enlistment for which a bonus was paid under this section," was replaced with "If a member paid a bonus under this section fails, during the period of service covered by the member's agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in the critical military skill or to satisfy the other eligibility criteria for which the bonus was paid."

The National Defense Authorization Act for Fiscal Year 2008 established two subchapters to chapter 5 of Title 37 of the U.S. Code. Subchapter I consists of the existing special pays, incentive pays, and bonus authorities. Subchapter II consists of the consolidation of special pay, incentive pay, and bonus authorities. It also transferred 37 U.S.C. §323 from subchapter I and redesignated it as 37 U.S.C. §355 under subchapter II.

[1] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle F, Sec. 661, 122 Stat. 3, 163-178 (2008).

In July 2010, Pub. L. No. 111-207, Sec.4(a)(4), 124 Stat. 2251, repealed the requirement of the Secretaries of Defense and Homeland Security to submit to Congress annual reports on retention bonuses.

The authority to pay the critical skills retention bonus has been extended in one-year increments through December 31, 2016.[2]

Current amount of critical skills retention bonus: $200,000 for members of the regular armed forces, $100,000 for active-duty reserve members.

[2] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 614, 129 Stat. 726, 838-839 (2015).

Chapter II.E.2.e.
MOS Conversion Bonus General

Legislative Authority: 37 U.S.C. §326.

Purpose: To provide an incentive for the transition of enlisted members from well-supplied military occupational specialties into military occupational specialties experiencing a shortage of qualified personnel.

Background: In order to improve the supply of personnel in designated military occupational specialties where shortages have occurred, the National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1506 (2003), established a new paragraph in 37 U.S.C. Chapter 5. This provision authorizes an incentive bonus for enlisted personnel who convert their military occupational specialties into one of the designated categories. Members sign an agreement committing them to serve for not less than three years in the new specialty. Eligible personnel are those in grade E-6 with fewer than 10 years of active service and those in grade E-5 and below, regardless of time in service. Military occupational specialties from which members may transfer are those considered to be over-manned (having an inventory-to-authorization ratio greater than 102 percent), and specialties are considered to have a shortage if that ratio is less than 95 percent. The lump-sum bonus is a maximum of $4,000, which is received in addition to any other bonuses. The initial legislative authority for the bonus extended through the end of calendar year 2006. Subsequent national defense authorization acts extended the bonus annually through 2016.[1] The National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004), expanded eligibility to include reserve component members, but only for a maximum amount of $2,000. The National Defense Authorization Act for Fiscal Year 2013 increases from $2,000 to $4,000 the maximum incentive bonus for reserve personnel who convert their military occupational specialty to one in which there is a shortage of trained and qualified personnel.[2]

The National Defense Authorization Act for Fiscal Year 2008 consolidated more than 65 special and incentive pays and bonuses into eight general bonus authorities.[3] The consolidation of legislative authorities is intended to simplify and reduce the costs of administering the special and incentive pays system while providing the services with greater flexibility to adjust compensation as required by circumstances. Under the consolidated pay authorities the MOS conversion bonus transitions to 37 U.S.C. § 331, General Bonus Authority for Enlisted Members. This authority authorizes the Department of Defense to pay enlistment, affiliation, retention, and transfer bonuses to enlisted service members.

In compliance with the transition to the Congressionally-mandated Consolidation of Special Pay, Incentive Pay, and Bonus Authorities process, the Under Secretary of Defense for Personnel and Readiness, advised the Congressional Defense Committees, in writing on January 22, 2013, of the Department of Defense intent to discontinue using section 326, and transition to the pay authority in 37 U.S.C. §331. Department of Defense Instruction 1304.31, "Enlisted Bonus Program," dated March 12, 2013, is germane.

Current bonus rate authorized: A lump-sum payment not to exceed $4,000.

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[1] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 615, 129 Stat. 726, 839 (2015).
[2] National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, title VI, Subtitle B, Sec. 617, 126 Stat. 1632, 1778 (2013).
[3] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 661, 122 Stat. 3, 163 (2008).

Chapter II.E.2.f.
Reserve Affiliation, Enlistment and Reenlistment Bonuses, Special Unit Pay, and Educational Assistance

Legal Authority: 37 U.S.C. §§308b, 308c, 308d, 308e, 308g, 308h, and 308i and 10 U.S.C. §§16131–16137.

Purpose: To provide an incentive to induce persons not in the armed forces or persons formerly in the armed forces to join reserve components of the armed forces and to encourage persons already in reserve components to remain in such components.

Background: As indicated elsewhere, enlistment and reenlistment bonuses have long been authorized for members of the active-duty branches of the armed forces, as have educational assistance benefits. See Chapters II.E.2.c., II.E.2.b., IV.B.2., and V.B.2., "Selective Reenlistment Bonus," "Enlistment Bonus," "Voluntary Education and Training," and "Veterans' Educational Assistance," respectively. In the mid- to late 1970s, manning and retention problems in the reserve components of the armed forces, and a felt need to maintain a pool of skilled, trained, and readily available personnel to augment active-duty forces in times of national emergency, underlay a decision to extend similar bonus and educational assistance authority to the reserve components. Five of the more prominent provisions enacted in this connection are discussed below.

Reenlistment Bonuses for Members of the Selected Reserve (37 U.S.C. §§308b and 308i)

The Department of Defense Appropriation Authorization Act, 1978, Pub. L. No. 95-79, §403(a)(1), 91 Stat. 323, 330–31 (1977), authorized, as a special pay, a reenlistment bonus for members of the Selected Reserve. As originally adopted, reenlistment bonuses were restricted to members of reserve components who had initially enlisted in such components,[1] had completed fewer than 10 years of service as members of such components, and had reenlisted or voluntarily extended enlistments for a period of three or six years in either a designated military skill specialty or a designated unit in the Selected Reserve of the Ready Reserve of an armed force. Personnel meeting these entitlement criteria were eligible for an immediate bonus of either $450 or $900—for three- and six-year agreements, respectively—and for further payments of $150 at the end of each year of reserve service completed under such agreements. The total amount payable was thus $900 for a three-year reenlistment or extension and $1,800 for a six-year agreement. The authority to pay such bonuses, adopted on July 30, 1977, and not programmed to become effective until October 1, 1977, was set to terminate on September 30, 1978.

As explained in the relevant congressional report, the reenlistment-bonus authority was adopted as a one-year experimental program to test the effectiveness of such bonuses in "retain[ing] enlisted members in designated priority units in the Selected Reserve."[2] In this connection, Congress was particularly moved by the need to bring some measure of stability and order to the existing reserve enlistment program, noting that "[a]t present, after the initial six-year period of enlistment, individuals can reenlist for periods as short as one year which imposes a discontinuity in the program."[3] In order to overcome this "discontinuity," the bonus was designed to be "available only for reenlistment periods of three ... or six years."[4] Half of the bonus was programmed to be paid "at the time of reenlistment or extension" in order to "increase its

[1] Members who had initially enlisted in a reserve component under the delayed-enlistment program of the armed forces were specifically excluded from eligibility for the new bonuses.
[2] H.R. Rep. No. 95-194 (Committee on Armed Services), at 91, accompanying H.R. 5970, 95th Cong., 1st sess. (1977). Also see H.R. Rep. No. 95-446 (Committee of Conference), at 51, and S. Rep. No. 95-282 (Committee of Conference), at 51, accompanying H.R. 5970, 95th Cong., 1st sess. (1977).
[3] H.R. Rep. No. 95-194 (Committee on Armed Services), at 91, accompanying H.R. 5970, 95th Cong., 1st sess. (1977).
[4] H.R. Rep. No. 95-194 (Committee on Armed Services), at 91, accompanying H.R. 5970, 95th Cong., 1st sess. (1977).

attractiveness," and hence its potential impact.[5] Congress specifically noted that the authority was restricted to personnel having completed fewer than 10 years of service as members of reserve components because "retention has not been a major problem after the ninth or tenth year of service"[6]—presumably because personnel completing that much service are motivated to continue in the reserve program in order to ultimately become eligible for retired pay for non-Regular service (see Chapter III.B.2., "Retired Pay for Non-Regular Service").

The Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §403, 92 Stat. 1611, 1614 (1978), amended the eligibility criteria for receipt of the reenlistment bonus, extended the authority for such payments through September 30, 1980, and, in essence, provided a mechanism for potentially reducing the amount of the bonus to be paid to affected members. Under the amended reenlistment-bonus authority, the bonus could be paid to enlisted members of reserve components who had completed fewer than 10 years of total military service and who reenlisted or extended an existing enlistment for either three or six years, thus eliminating the restriction that eligible members must initially have enlisted in a reserve component.[7] On the other hand, to be eligible for the bonus a member was then required to have fewer than 10 years of total military service, not just fewer than 10 years of reserve service. The potential for payment of a lower reenlistment bonus derived from the provision that the amounts payable may "not ... exceed" the previously set amounts—i.e., $450 for a three-year agreement, $900 for a six-year agreement, and $150 at the end of each year of completed service.

As reflected in the House report dealing with the Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, 92 Stat. 1611 (1978), the category of personnel eligible for the reenlistment bonus was expanded to include individuals who joined the reserves following service in the active forces in response to certain "dissatisfaction [that had] resulted from eligibility for this bonus being limited to personnel who enlisted initially in the reserve components" and "to permit the resources available to be used in the most effective manner."[8] The authority to pay the bonus, on the other hand, was extended for two additional years in order to allow the test program to be completed and the results evaluated, although Congress did note that "preliminary indications are that the bonus will improve retention."[9] The Department of Defense was given authority to vary the amount of the bonus up to the limits previously authorized to provide "increased flexibility" in administering the program.[10]

The Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §805(b), 94 Stat. 1077, 1095 (1980), further extended the termination date for the reserve reenlistment-bonus program—this time for five additional years, to September 30, 1985. The reason for the extension was continuing reserve manning shortfalls.[11]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §643(a), 99 Stat. 583, 652 (1985), again extended the Section 308b reenlistment-bonus authority, this time to September 30, 1987. At the same time, the 1986 Authorization Act increased the maximum bonuses payable for reenlistment—from $450 to $1,250 for a three-year agreement and from $900 to $2,500 for a six-year agreement. The

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[5] H.R. Rep. No. 95-194 (Committee on Armed Services), at 91, accompanying H.R. 5970, 95th Cong., 1st sess. (1977).
[6] H.R. Rep. No. 95-194 (Committee on Armed Services), at 91, accompanying H.R. 5970, 95th Cong., 1st sess. (1977).
[7] Also eliminated was the restriction that eligible members could not have initially enlisted in a reserve component under the delayed-enlistment program.
[8] H.R. Rep. No. 95-1118 (Committee on Armed Services), at 103, accompanying H.R. 10929, 95th Cong., 2d sess. (1978). See H.R. Rep. No. 95-1402 (Committee of Conference), at 50, accompanying H.R. 10929, 95th Cong., 2d sess. (1978).
[9] H.R. Rep. No. 95-1118 (Committee on Armed Services), at 102, accompanying H.R. 10929, 95th Cong., 2d sess. (1978).
[10] H.R. Rep. No. 95-1118 (Committee on Armed Services), at 103, accompanying H.R. 10929, 95th Cong., 2d sess. (1978).
[11] See, e.g., S. Rep. No. 96-826 (Committee on Armed Services), at 140, 143, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).

1986 Authorization Act also increased the year-end payment from $150 to a maximum of $416.66 for completion of each year of the period of reenlistment or extension. Here again, the reason underlying the enhancement of the reserve reenlistment-bonus program was a desire to improve upon what was characterized as a "[l]imited incentive ... to join the selected reserve."[12]

The Section 308b reserve reenlistment-bonus authority has subsequently been extended in defense authorization acts covering all of the years between 1987 and 2004.[13] The most recent extensions were mandated by the National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201; the National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85; the National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261; the National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65; the National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398; the National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107; the National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314; and the National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136.

The extension provided by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, *id*., was adopted with even less discussion,[14] and there has been similarly little discussion of the reasons underlying the extensions made by the authorization acts for subsequent years.

A like program was established by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §644(a)(1), 99 Stat. 583, 652–53 (1985), for former enlisted members of an armed force who enlisted in the Selected Reserve of the Ready Reserve for a period of three or six years in a critical military skill specially designated by the Secretaries of the various military departments concerned. The program, codified at 37 U.S.C. §308i, originally was available to persons who had completed their military-service obligations but had less than four years of total military service, who had received an honorable discharge, who were not being released from active service for the purpose of enlisting in a reserve component, and who had not previously been paid a bonus for enlisting, reenlisting, or extending an enlistment in a reserve

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[12] H.R. Rep. No. 99-81 (Committee on Armed Services), at 234, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). Also see *id*., at 233–34, generally; S. Rep. No. 99-41 (Committee on Armed Services), at 194–95, accompanying S. 1029, 99th Cong., 1st sess. (1985); S. Rep. No. 99-118 (Committee of Conference), at 432–33, accompanying S. 1160, 99th Cong., 1st sess. (1985); and H.R. Rep. No. 99-235 (Committee of Conference), at 432–33, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[13] Earlier extensions were as follows: from September 30, 1987 to September 30, 1990 (the only three-year extension in the history of the bonus authority), in the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180. 101 Stat. 1019, 1104; from September 30, 1990, to September 30, 1992 (the first of two two-year extensions in the history of the bonus authority), in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, 103 Stat. 1352, 1446; from September 30, 1992, to September 30, 1993, in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, 106 Stat. 2315, 2421; from September 30, 1993, to September 30, 1994, in the National Defense Authorization Act for Fiscal Year 1995 (the second of two two-year extensions), Pub. L. No. 103-160, 107 Stat. 1547, 1680; from September 30, 1995, to September 30, 1996, in the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, 108 Stat. 2663, 2782; and from September 30, 1996, to September 30, 1997, in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186, 359. With respect to the unusual three-year extension for 1987-90, the House Armed Services Committee noted:

> Section 623 [of H.R. 1748, the House-sponsored Authorization Bill, and the predecessor of Section 626(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180] would extend the authority to pay enlistment and reenlistment bonuses….to reserve component members until September 30, 1990. The Administration requested….a three-year extension for reserve programs. The committee believes that extensions of….three years offer a reasonable balance between program continuity and congressional oversight.

[14] H.R. Rep. No. 101-331 (Committee of Conference), at 586, and H.R. Rep. No. 101-121 (Committee on Armed Services), at 275, both accompanying H.R. 2461, 101st Cong., 1st sess. (1989). S. Rep. No. 101-81 (Committee on Armed Services), accompanying S. 1352, 101st Cong., 1st sess. (1989), did not even mention the two-year extension proposed in Section 630 of the Senate bill.

component. The National Defense Authorization Act for Fiscal Year 1998 extended eligibility for the bonus to members with less than 14 years of total military service. The bonuses payable to individuals with such qualifying prior service are exactly the same as those payable under 37 U.S.C. §308b to members of a reserve component who reenlist or voluntarily extend an enlistment in such a component. Here also, the reason underlying the establishment of the new "prior service enlistment bonus" for former members of an armed force was a desire to improve upon what Congress characterized as a "[l]imited incentive ... to join the selected reserve."[15]

The original termination date for the Section 308i enlistment-bonus authority was September 30, 1987, but that authority has since been extended by the same sections of the national defense authorization acts, covering all the years between 1987 and 2004, as those that extended the standard selected reserve reenlistment bonus. As was the case with the standard selected reserve reenlistment bonus, the authorization act for 1988 and 1989 provided a three-year extension for the prior service bonus through September 30, 1990.

The National Defense Authorization Act for Fiscal Year 2006 increased the eligibility for a reenlistment bonus for an enlisted member of the selected reserve from "not more than 16 years of total military service" to "not more than 20 years of total military service." It also extended the total years of service for which an enlisted member may receive the bonus from 20 years of service up to 24 years of total service.[16]

The National Defense Authorization Act for Fiscal Year 2008 sets at three years the required minimum period of obligated service, and at $15,000 the maximum amount, for the Selected Reserve reenlistment bonus.[17] The authority to pay this bonus has been extended in one-year increments through December 31, 2016.[18]

The authority to pay the Selected Reserve Enlistment and Reenlistment Bonus for Persons with Prior Service has been extended in one-year increments through December 31, 2016.[19]

Enlistment Bonus for Members of the Selected Reserve (37 U.S.C. §308c)

The Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §404(a), 92 Stat. 1611, 1614 (1978), authorized, as a special pay, an enlistment bonus for individuals who enlist in the Selected Reserve of the Ready Reserve. Under this authority, any person who was a graduate of a secondary school, who had never previously served in an armed force, and who enlisted for not less than six years in the Selected Reserve of the Ready Reserve became eligible for an enlistment bonus not to exceed $2,000. Half of the bonus—i.e., up to $1,000—was to be payable upon an individual's completion of initial active duty for training, with the remainder to be paid either in periodic installments or in a lump sum, as determined by the Secretaries of the military departments concerned. The new enlistment-bonus authority was adopted out of concern with continuing manning deficiencies in the reserve components of the armed forces.[20] It was adopted as an experimental program to test how effective such bonuses might be in increasing enlistments and meeting recruiting goals.

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[15] H.R. Rep. No. 101-331 (Committee of Conference), at 586, and H.R. Rep. No. 101-121 (Committee on Armed Services), at 275, both accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

[16] National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, Title VI, Subtitle B, Sec. 630, 119 Stat. 3298, (2006).

[17] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 619, 122 Stat. 3, 181 (2008).

[18] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, title VI, Subtitle B, Sec. 611, 129 Stat. 726, 837 (2015).

[19] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 611, 129 Stat. 726, 837 (2015).

[20] See, e.g., H.R. Rep. No. 95-1118 (Committee on Armed Services), at 100–103, and H.R. Rep. No. 95-1402 (Committee of Conference), at 50, accompanying H.R. 10929, 95th Cong., 2d sess. (1978).

As initially adopted, authority for the enlistment-bonus program was to terminate on September 30, 1980. Between the Department of Defense Authorization Act for 1981 and the National Defense Authorization Act for Fiscal Year 2004, the program has been extended continuously by legislation through the years that followed. The earlier extensions—those made through the 1989 legislative session—were all made explicitly because of concern over continuing manning shortfalls.[21] [22] [23]

In addition to extending the program termination date, the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §612(b)(1), 107 Stat. 1547, 1680 (1993), increased the maximum amount of the enlistment bonus authorized from $2,000 to $5,000 and provided that not more than half the bonus could be paid upon completion of a person's initial active duty for training.[24] The remainder of the bonus may be paid in periodic installments or in a lump sum as determined by the Secretaries of the different services. The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 654 (1999), further increased the maximum amount of the bonus, from $5,000 to $8,000 and eliminated the requirement that an individual enlist for at least six years.

The National Defense Authorization Act for Fiscal Year 2006 sets at $20,000 the amount that the Enlistment Bonus for Members of the Selected Reserve may not exceed.

The National Defense Authorization Act for Fiscal Year 2008 authorizes payment of a Selected Reserve enlistment bonus to persons who had enlisted previously, but were unable to complete basic training requirements and whose service was characterized as honorable or uncharacterized.[25] The authority to pay this bonus has been extended in one-year increments through December 31, 2016.[26]

Bonus for Selected Reserve Affiliation Agreement (37 U.S.C. §308e)

*****The authority to pay the selected reserve affiliation bonus was repealed by the National Defense Authorization Act for Fiscal Year 2006***.**

The Department of Defense Authorization Act of 1981, Pub. L. No. 96-342, §805(a)(1), 94 Stat. 1077, 1093–1094 (1980), authorized, effective October 1, 1980, a bonus for Selected Reserve affiliation to persons who had served or were serving on active duty and who, upon release therefrom, had or would have a reserve service obligation under 10 U.S.C. §651 or 50 U.S.C. App. §456(d)(1). To be eligible for the bonus, a person must (i) be eligible for reenlistment or for an extension of active duty, (ii) have satisfactorily completed whatever prior enlistment or obligated active-duty service he or she had to perform, (iii) be qualified in a military skill specialty specially designated by the Secretary of Defense for the purposes of the bonus provision, (iv) have a grade for which there is a vacancy in the reserve component of which the individual is to become a member, (v) not be affiliating in a reserve component to become a reserve, an Army National Guard, or an Air National Guard technician, (vi) enter a written agreement to serve as a

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[21] See, e.g., S. Rep. No. 96-826 (Committee on Armed Services), at 140, 143, accompanying H.R. 6974, 96th Cong., 2d sess. (1980), concerning the first extension to September 30, 1995.

[22] e.g., H.R. Rep. No. 99-81 (Committee on Armed Services), at 233–34, accompanying H.R. 1872, and S. Rep. No. 99-41 (Committee on Armed Services), at 194–95, accompanying S. 1029, 99th Cong., 1st sess. (1985), concerning the extension to 1987. Also see S. Rep. No. 99-118 (Committee of Conference), at 432–33, and H.R. Rep. No. 99-235 (Committee of Conference), at 432–33, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[23] For the reasons underlying the six most recent extensions—to September 30, 1990, to September 30, 1992, to September 30, 1993, to September 30, 1995, to September 30, 1996, and to September 30, 1997—see footnotes 13, 14, and 15 and accompanying text, above.

[24] See H.R. Rep. No. 103-200 (Committee on Armed Services), at 294, and H.R. Rep. No. 103-357 (Committee of Conference), at 683, accompanying H.R. 2401, 103d Cong., 1st sess. (1993); *cf.* S. Rep. No. 103-112 (Committee on Armed Services), at 152, accompanying S. 1298, 103d Cong., 1st sess. (1993).

[25] National Defense Authorization Act for Fiscal Year 2008, Publ. L. No. 110-181, title VI, Subtitle B, Sec. 620, 122 Stat. 3, 151 (2008).

[26] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 611, 129 Stat. 726, 837 (2015).

member of the Selected Reserve of the Ready Reserve of an armed force for the period of obligated reserve service such person has remaining or will have remaining at the time of discharge or release from active duty, and (vii) meet all other requirements for becoming a member of the Selected Reserve of the Ready Reserve of the armed force with which the individual is affiliating. The amount of the bonus payable under the program was determined by multiplying $25 by the number of months of reserve obligation the member has remaining at the time of entering into the agreement or which will remain upon the member's release from active duty. The Selected Reserve affiliation-bonus authority adopted in the Department of Defense Authorization Act of 1981, Pub. L. No. 96-342, *id*., was set to terminate September 30, 1981. The program was adopted on a one-year experimental test basis "to encourage skilled prior active-duty service personnel to affiliate early with Selected Reserve units"[27] and thereby to improve the manning posture of the Selected Reserve.[28] The termination date for the Selected Reserve affiliation-bonus program was extended to September 30, 1985, by the Department of Defense Authorization Act, 1982, Pub. L. No. 97-86, §505, 95 Stat. 1099, 1109 (1981).[29] The termination date was again extended, this time to September 30, 1987, by the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §645(a)(2), 99 Stat. 583, 654 (1985). The 1986 Authorization Act, Pub. L. No. 99-145, *id*., §645(a)(1), 99 Stat. 654, also increased the bonus payable under the program by providing that the maximum amount of the bonus was to be determined by multiplying $50 times the number of months of reserve obligation the member had remaining, or will have remaining when released from active duty.[30]

The termination date for the Section 308e Selected Reserve affiliation-bonus authority has since been extended a number of times between the initial extension mandated by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(b), 101 Stat. 1019, 1104 (1987) and the extension prescribed by the National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136. The authority to pay the selected reserve affiliation bonus was repealed by the National Defense Authorization Act for Fiscal Year 2006.[31]

Enlistment, Reenlistment, and Enlistment Extension Bonuses for Members of the Ready Reserve Other than the Selected Reserves (37 U.S.C. §§308g and 308h)

The Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §805(a)(1), 94 Stat. 1077, 1092–1093 (1980), authorized the payment of a special bonus to any person who enlisted, reenlisted, or voluntarily extended an enlistment for a period of at least three years in any element of the Ready Reserve other than the Selected Reserve—in short, for enlistment, reenlistment, or extension in the Individual Ready Reserve. This provision was initially codified at 37 U.S.C. §308d. To be eligible for the reenlistment or extension portion of the bonus authorized, a person must have satisfactorily completed the original term of enlistment in the armed forces. The Secretary of Defense was expressly authorized to prescribe additional eligibility criteria under the provisions of former 37 U.S.C. §308d(c). The maximum amount of the bonus payable was set at $600, and the authority was programmed to terminate September 30, 1981. The new authority was granted because the Individual Ready Reserve, "the primary source of trained individuals for replacement and augmentation in emergencies," was "up to 500,000 below mobilization requirements for

[27] S. Rep. No. 96-826 (Committee on Armed Services), at 142, accompanying H.R. 6974, 96th Cong., 2d sess. (1980). See H.R. Rep. No. 96-1222 (Committee of Conference), at 92, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).
[28] For a discussion of the manning problems confronting the Selected Reserve, see H.R. Rep. No. 96-916 (Committee on Armed Services), at 130–32, and S. Rep. No. 96-826 (Committee on Armed Services), at 139–42, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).
[29] See H.R. Rep. No. 97-311 (Committee of Conference), at 113–14, accompanying S. 815, 97th Cong., 1st sess. (1981).
[30] See H.R. Rep. No. 99-81 (Committee on Armed Services), at 234–35, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). Also see S. Rep. No. 99-41 (Committee on Armed Services), at 194–95, accompanying S. 1029, S. Rep. No. 99-118 (Committee of Conference), at 433, accompanying S. 1160, and H.R. Rep. No. 99-235 (Committee of Conference), at 433, accompanying S. 1160, 99th Cong., 1st sess. (1985).
[31] National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, Title VI, Subtitle V, Sec. 631, 119 Stat. 3136, 3299 (2006).

the Army alone," and it was felt a special incentive would be helpful in reducing the noted shortages.[32] To meet the most significant shortage, Congress noted that the new authority, which was adopted on a one-year experimental basis, should be used only for "individuals who have or will be trained in combat skills."[33] The bonus authority of former 37 U.S.C. §308d for enlistments, reenlistments, and extensions in the Individual Ready Reserve was not extended and accordingly terminated on September 30, 1981.[34]

The enlistment- and reenlistment-bonus program for members of the Individual Ready Reserve as initially codified at 37 U.S.C. §308d was effectively revived by the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, 97 Stat. 614 (1983). In place of former 37 U.S.C. §308d,[35] Congress, in the 1984 Authorization Act, established two different bonus programs. Under the first, codified at 37 U.S.C. §308g, Congress provides for bonuses in the maximum amount of $3,000 to be paid to an "eligible person" who "enlists in a combat or combat support skill" of an element of the Ready Reserve (other than the Selected Reserve) for a period of at least six years. Eligibility for participation in this program was limited to persons who have not previously served in an armed force. Bonuses may not be paid to any person for an enlistment during the period October 1, 1992 through September 30, 2005. Under the second of the programs, codified at 37 U.S.C. §308h, Congress provided for bonuses in the maximum amount of $900 to be paid to a person who is or has been a member of an armed force and who enlists, reenlists, or extends an existing enlistment in a combat or combat support skill of an element of the Ready Reserve (other than the Selected Reserve) for a period of at least three years in addition to any other period the person was otherwise obligated to serve. [See Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1011(a), 97 Stat. 663–64.] Both programs were to be administered pursuant to regulations prescribed by the Secretary of Defense, and both programs had a termination authorization date of September 30, 1985. As explained by Congress, the purpose underlying adoption of the two programs was to "continue building the size of the pre-trained manpower pool" available in periods of national emergency.[36] In authorizing the bonuses in question, Congress underlined its intention that the bonuses be paid only to individuals enlisting in combat or combat support skills "where critical shortages exist."[37]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §646(a), 99 Stat. 583, 654 (1985), extended the program authorization date for both bonuses from September 30, 1985, to September 30, 1987. In addition, the 1986 Authorization Act amended the Section 308h bonus authority by providing that a bonus of not more than $1,500 could be paid to a person qualified for the Section 308h program and who enlists, reenlists, or extends an existing enlistment for a period of six years and a bonus of not more than $750 could be paid to a person who enlists, reenlists, or extends for a period of three years. Congress also authorized the Secretaries of the various military departments to impose, as a condition of

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[32] S. Rep. No. 96-826 (Committee on Armed Services), at 140–41, accompanying H.R. 6974, 96th Cong., 2d sess. (1980). Also see H.R. Rep. No. 96-916 (Committee on Armed Services), at 132–33, and S. Rep. No. 96-826 (Committee on Armed Services), at 140–42, accompanying H.R. 6974, 96th Cong., 2d sess. (1980), on the manning shortage in the Individual Ready Reserve.

[33] H.R. Rep. No. 96-1222 (Committee of Conference), at 92, accompanying H.R. 6974, 96th Cong., 2d sess. (1980); see also S. Rep. No. 96-826 (Committee on Armed Services), at 141, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).

[34] A new Section 308d of Title 37, United States Code, providing $10 special pay for attendance at inactive-duty training sessions to enlisted members of the Selected Reserve assigned to high-priority units that have experienced or may reasonably be expected to experience critical personnel shortages, was added by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §505(a)(1), 103 Stat. 1352, 1437–1438 (1989), but this provision was in no sense a follow-on to or derivative from former Section 308d. For a discussion of this 37 U.S.C. §308d special unit assignment pay program, see the heading "Special Assignment Pay for Enlisted Members of the Selected Reserve" in this chapter, below.

[35] In reviving enlistment and reenlistment bonuses for members of the Individual Ready Reserve, Congress in fact repealed former 37 U.S.C. §308d in the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1011(b)(1), 97 Stat. 614, 664 (1983). See footnote 30 to this chapter, above.

[36] S. Rep. No. 98-174 (Committee on Armed Services), at 196, accompanying S. 675, 98th Cong., 1st sess. (1983).

[37] S. Rep. No. 98-174 (Committee on Armed Services), at 197, accompanying S. 675, 98th Cong., 1st sess. (1983).

receipt of Section 308h bonuses, an agreement of an affected individual to participate in an "annual muster of the reserves, or inactive duty for training." The reason underlying these actions was, generally speaking, a concern with the effectiveness of these and other incentives in motivating individuals to perform reserve service.[38]

The termination date for the Section 308g enlistment-bonus program for members of the Ready Reserve was extended twice more—first, from September 30, 1987, to September 30, 1990, by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §626(b), 101 Stat. 1019, 1104 (1987), and second, from September 30, 1990, to September 30, 1992, by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §613, 103 Stat. 1352, 1446 (1989).[39] The National Defense Authorization Act for Fiscal Year 2016 extends the authority to pay this bonus through December 31, 2016.[40]

The termination date for the Section 308h bonus programs for enlistment, reenlistment, and enlistment extension for members of the Ready Reserve has since been extended by national defense authorization acts beginning in 1987 and continuing through 2016.[41] The National Defense Authorization Act for 2002, Pub. L. No. 107-107, 115 Stat. 1137, changed the description of eligibility requirements for the bonus in 37 U.S.C. §308h. Prior to that legislation, the law had limited eligibility to individuals enlisting, reenlisting, or extending enlistment in a combat or combat support skill. The new legislation stipulated that such an individual must possess a skill or specialty "designated by the Secretary concerned as a critically short wartime skill or critically short wartime specialty." The report of the Senate Armed Services Committee explained that this change expanded bonus eligibility to a new category of personnel:

> This [amendment] would authorize payment to service members serving in combat service support skills as well as combat and combat support skills.[42]

The 2002 legislation changed neither the amounts of the bonus nor the other terms of eligibility prescribed in 37 U.S.C. §308h.

Special Assignment Pay for Enlisted Members of the Selected Reserve (37 U.S.C. §308d)

The National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §505, 103 Stat. 1352, 1437–1438 (1989), added a new special pay program, codified at 37 U.S.C. §308d,[43] for certain enlisted members of the Selected Reserve of the Ready Reserve assigned to certain high-priority units. Under this new provision, an enlisted member who performs inactive-duty training for which the member receives compensation under 37 U.S.C. §206 and who is assigned to a high-priority unit, of the Selected Reserve, that has experienced or may reasonably be expected to experience a critical personnel shortage may be paid an additional amount, not to exceed $10, for each training period. As explained by the Senate Armed Services Committee:

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[38] See, e.g., S. Rep. No. 99-41 (Committee on Armed Services), at 194–95, accompanying S. 1029, and H.R. Rep. No. 99-81 (Committee on Armed Services), at 236, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See also H.R. Rep. No. 99-235 (Committee of Conference), at 433–34, and S. Rep. No. 99-118 (Committee of Conference), at 433–34, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[39] For the reasons underlying these extensions, see footnotes 13, 14, and 15 and associated text, above.

[40] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 611(4), 129 Stat. 726, 837 (2015).

[41] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 611, 129 Stat. 726, 837 (2015).

[42] S. Rep. No. 107-062 (Armed Services Committee), accompanying S. 1416, 107th Cong., 1st sess. (2001).

[43] As previously indicated, former 37 U.S.C. §308d was repealed by the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1011(b)(1), 97 Stat. 614, 664 (1983). See footnotes 30 and 31 and accompanying text to this chapter, above.

> The Department of Defense requested authority for a two-year test program to pay a special unit assignment pay to enlisted members who are assigned to high priority units when they perform inactive duty for training. The pay may not exceed $10.00 for each period of training. This pay would be in addition to other pay or allowances to which a member would be entitled and is proposed as a test to determine if such payment would encourage higher participation of reservists in high priority units. The committee recommends ... approval of the request.[44]

The paragraph caption used as an introduction to the Senate proposal was "Naval Reserve Fleet Duty Incentive Pay Test."[45] As administered, the Secretary of each military department designates units whose members will receive this special pay.[46]

The original termination date for authority for the test program was September 30, 1991, but the termination date for the program has been extended annually from 1992 through 2016 by subsequent national defense authorization acts, the most recent of which was the National Defense Authorization Act for Fiscal Year 2016.[47]

Educational Assistance for Members of the Selected Reserve (10 U.S.C. §§16131–16137)

The Department of Defense Appropriation Authorization Act, 1978, Pub. L. No. 95-79, §402, 91 Stat. 323, 328–30 (1977), established what was in essence a targeted educational-assistance program for enlisted members of the Selected Reserve. To be eligible for educational assistance under this program, an individual must have graduated from a secondary school, have enlisted for six years in the Selected Reserve of the Ready Reserve of an armed force, and have never served in an armed force before such enlistment. Educational assistance could be provided under this program to a member until the member completed a course of instruction required for the award of a baccalaureate degree, or the equivalent evidence of completion of study, by an accredited institution. As initially authorized, educational assistance could cover 50 percent of educational expenses (tuition, fees, books, laboratory and shop fees) not to exceed $500 in any 12-month period, or $2,000 in total. The 50-percent limitation on coverage of educational expenses was removed to allow 100 percent coverage by the Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, §402, 93 Stat. 803, 808 (1979). The maximum amount of assistance for any 12-month period was increased from $500 to $1,000, and the total amount of assistance from $2,000 to $4,000, by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §906(a)(1), 94 Stat. 1077, 1117 (1980).

As indicated in the statute itself, the purpose underlying provision of educational assistance through the new program was "[t]o encourage enlistments in the Selected Reserve of the Ready Reserve." Former 10 U.S.C. §2131(a) (redesignated 10 U.S.C. §16131(a)) by Section 402(a) of the Department of Defense Appropriation Authorization Act, 1978, Pub. L. No. 95-79, §402, 91 Stat. 323, 328–30 (1977).[48] As explained in the relevant congressional reports, the program was initially adopted as a test program "to determine the effectiveness of [the provision of educational benefits] in assisting recruiting and retention

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[44] S. Rep. No. 101-81 (Committee on Armed Services), at 164, accompanying S. 1352, 101st Cong., 1st sess. (1989); *cf.*, H.R. Rep. No. 101-331 (Committee of Conference), at 580, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).
[45] S. Rep. No. 101-81 (Committee on Armed Services), at 164, accompanying S. 1352, 101st Cong., 1st sess. (1989); *cf.*, H.R. Rep. No. 101-331 (Committee of Conference), at 580, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).
[46] 37 U.S.C. §308d(b).
[47] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 611, 129 Stat. 726, 837 (2015).
[48] The current text of 10 U.S.C. §16131(a) has been amended to indicate that the purpose is "[t]o encourage membership in units of the Selected Reserve of the Ready Reserve," and, indeed, eligibility to participate in the program has been extended to reserve officers who are members of the Selected Reserve. See text following footnote 45, below.

in the Ready Reserve."[49] As a test program, the authority was originally scheduled to terminate September 30, 1978, but was later extended, first to September 30, 1980, by the Department of Defense Authorization Act, 1979, Pub. L. No. 95-485, §402(a), 92 Stat. 1611, 1613 (1978), and later to September 30, 1985, by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §906(b), 94 Stat. 1077, 1117 (1980). In the case of the latter extension, the House Committee on Armed Services noted that the program had achieved some success in terms of increased recruitment and retention, citing a 6-percent increase in the strength of Army Reserve units using the incentives as compared with an increase of less than 1 percent for units not using the incentives.[50]

The targeted educational-assistance program established by the Department of Defense Appropriation Authorization Act, 1978, Pub. L. No. 95-79, §402, 91 Stat. 323, 328–30 (1977), was substantially amended in 1984 by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §705, 98 Stat. 2492, 2564–2567 (1984).[51] Under the 1985 Authorization Act, the educational-assistance program for reserve forces personnel became, in effect, an entitlement program. Eligibility was extended to reserve officers, in addition to enlisted personnel, who agreed to serve at least six years in addition to any other period of obligated service they may have had. In addition, the basis for payment of educational assistance was changed, so that a participant in the program was entitled to $140 for each month of "full time pursuit of a program of education," to $105 per month for "three-quarter-time pursuit of a program of education," to $70 per month for "half-time pursuit of a program of education," and to "an appropriately reduced rate" for "less than half-time pursuit of a program of education." A maximum of 36 months of educational assistance is available under the program. Satisfactory participation in required training as a member of the Selected Reserve is stipulated as a condition of entitlement to educational assistance under the program, and various penalties and payback provisions have been added for failure to participate satisfactorily in such training. This program was established as a test program applicable from July 1, 1985, through June 30, 1988.

As explained by the House Armed Services Committee, the reasons for the enhanced program of educational assistance to reserve forces personnel was Congress's "particular concern" with the

> ... recent downturn in recruiting experienced by the Army National Guard and the Army Reserve.... With the growing reliance on the reserve components envisioned by the committee, a special enlistment and reenlistment incentive for the reserve and guard is vital ....
>
> The committee believes that an educational assistance program will help prevent the reoccurrence of recruiting problems and will assist in attracting high-quality personnel into the ... reserve forces, particularly the Army.[52]

Experience with the educational-assistance program for members of the Selected Reserve generally proved favorable, and the authority was made permanent by the New GI Bill Continuation Act, Pub. L. No. 100-48, §4, 101 Stat. 331 (1987).

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[49] H.R. Rep. No. 95-446 (Committee of Conference), at 51, and S. Rep. No. 95-282 (Committee of Conference), at 51, accompanying H.R. 5970, 95th Cong., 1st sess. (1977). See H.R. Rep. No. 95-194 (Committee on Armed Services), at 89–91, accompanying H.R. 5970, 95th Cong., 1st sess. (1977).

[50] H.R. Rep. No. 96-916 (Committee on Armed Services), at 131, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).

[51] Indeed, the prior program—incorporated in Title 10, United States Code, as Chapter 106—was discontinued effective July 1, 1985, although personnel in the program prior to its termination remain eligible for continued benefits. 10 U.S.C. §2138.

[52] H.R. Rep. No. 98-691 (Committee on Armed Services), at 263, accompanying H.R. 5167, 98th Cong., 2d sess. (1984). See *id*., generally, at 262–65. Also see H.R. Rep. No. 99-1080 (Committee of Conference), at 306–8, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

PRIOR LEGISLATION

In 1976 Congress approved legislation (Pub. L. No. 94-502) ending educational assistance under the Vietnam-era GI Bill for individuals entering military service on or after January 1, 1977.

Those with post-Vietnam-era service were instead eligible for the Veterans' Educational Assistance Program (VEAP) which, unlike the Vietnam-era benefit, required a contribution by the service member. Under this contributory program, the Government matched the service member's contribution of up to $2,700 on a two-for-one basis (or a Government contribution of up to $5,400), for a maximum educational benefit of $8,100. To make the program more attractive, the Army decided to supplement the basic benefit with substantial "kickers" for enlistment in critical skills, principally the combat arms, under the Army College Fund.

With the exception of the Army College Fund which the Army advertised and marketed widely, VEAP was a dismal failure. Participation rates were low, and many who originally signed up subsequently decided to disenroll. Congress, therefore, decided to rethink the issue and subsequently in Title VII of the Department of Defense Authorization Act, 1985 (Pub. L. No. 98-525) approved a three-year test of a new educational assistance program, commonly called the New GI Bill.[53]

THE NEW GI BILL

The New GI Bill was designed to use educational benefits as a way to attract and retain high quality young men and women in the Nation's Armed Forces—in both the active and reserve components. The structure of the program is as follows:

Active-duty personnel:

Applicable to all new entrants onto active duty from July 1, 1985, through June 30, 1988.

Basic benefit of $300 per month for 36 months in exchange for an enlistment of three years or longer (or $250 per month for 36 months for two-year enlistment).

Kicker authority up to $400 per month for critical skills.

Basic benefit paid by the Veterans Administration on a pay-as-you-go basis.[48]

Kickers (and reserve program) funded by the Department of Defense on accrual basis.

Participants' pay is reduced by $100 per month for first 12 months; service member is in program unless opts out.

Reserve and Guard personnel:

[53] Title VII of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §§701–709, 98 Stat. 2492, 2553–2572 (1984), which dealt with, among other things, the educational-assistance program for members of the Selected Reserve and was originally titled "Veterans' Educational Assistance Act of 1984," was retitled "Montgomery GI Bill Act of 1984" by Section 2 of the New GI Bill Continuation Act, Pub. L. No. 100-48, §2, 101 Stat. 331 (1987). (While formally denominated the Veterans' Educational Assistance Act of 1984, Title VII of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §§701–709, 98 Stat. 2492, 2553–2572 (1984), was generally referred to as the "New GI Bill," even before enactment of the New GI Bill Continuation Act.)

> Applicable to all who enlist, reenlist, or extend and enlistment in a reserve component from July 1, 1985, to June 30, 1988.
>
> Entitlement of $140 per month for 36 months in exchange for a six-year commitment in the Selected Reserve.
>
> No member contribution required.
>
> Funded by the Department of Defense on an accrual basis.
>
> Based on the information available to date, the committee is convinced the New GI Bill is a highly successful program. The committee will not restate the wealth of back - up data provided in Part I of the report on H.R. 1085 [which was enacted as the New GI Bill Continuation Act, Pub. L. No. 100-48, 101 Stat. 331 (1987)] filed by the Committee on Veterans' Affairs. Participation rates by service members have far exceeded even the most optimistic predictions when this legislation was formulated two and half [sic] years ago. Witnesses before the committee have uniformly endorsed the continuation of the New GI Bill as a vital tool to maintaining the outstanding recruiting and retention results currently experienced by the services.
>
> The Army's success during fiscal year 1986, the first year of experience under the New GI Bill, illustrates the importance of a viable educational assistance program. In fiscal year 1986, the active Army—the service that has traditionally experienced the greatest difficulty in meeting its recruiting goals—recruited 91 percent high school graduates, with only four percent in Mental Category IV, the lowest Mental Category eligible for enlistment. In the Army Reserve, Mental Category I-IIIA recruits, the cream of the crop in recruiting, increased 24 percent and six-year enlistments increased 28 percent during the first year of the New GI Bill in comparison to the previous year.
>
> The committee believes the test program has been an unqualified success and, therefore, recommends that the June 30, 1988, expiration date for the New GI Bill be eliminated, thus making the program permanent.[54]

The National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §642, 103 Stat. 1352, 1456–1458 (1989), prospectively amended the Montgomery GI Bill (as the "New GI Bill" became designated), effective September 30, 1990, to permit persons eligible to participate in the educational-assistance program for members of the Selected Reserve to receive benefits for vocational and technical training. Before the amendment in question, members of the Selected Reserve had been eligible for educational benefits only for "pursuit of a program of education at an institution of higher learning," which had ruled out vocational-technical education and training. The House Committee on Armed Services, indicating that it "believe[d] ... that inclusion of vocational-technical training has considerable merit as a recruiting incentive" for membership in the Selected Reserve, recommended this expansion of the

[54] H.R. Rep. No. 100-22, Part 2 (Committee on Armed Services), at 2–3, accompanying H.R. 1085, 100th Cong., 1st sess. (1987). As indicated in the report of the House Committee on Armed Services, quoted above, a more extensive discussion of the purposes of the New GI Bill and the experience thereunder antedating enactment of the New GI Bill Continuation Act, Pub. L. No. 100-48, 101 Stat. 331 (1987), is found in the report of the House Committee on Veterans' Affairs, H.R. Rep. No. 100-22, Part 1 (Committee on Veterans' Affairs), accompanying H.R. 1085, 100th Cong., 1st sess. (1987). See, in particular, H.R. Rep. No. 100-22, Part 1, *id*., at 2–11.

educational-assistance program for reserves,[55] and the Senate, in Conference, agreed to the House proposal.[56] [57]

The Veterans' Benefits Act of 1992, Pub. L. No. 102-568, §301(b), 106 Stat. 4320, 4326 (1992), amended the benefits rate structure so that a participant in the program was entitled to $190 for each month of "full time pursuit of a program of education," to $143 per month for "three-quarter-time pursuit of a program of education," to $95 per month for "half-time pursuit of a program of education," and to "an appropriately reduced rate" for "less than half-time pursuit of a program of education."[58] Under earlier amendments to the program enacted in the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §337(b), 105 Stat. 75, 90–91 (1991), as itself subsequently amended by the Veterans Reconciliation Act of 1993, enacted as Title XII of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §12009(b), 107 Stat. 312, 416 (1993), the Secretary of the Department of Veterans Affairs is authorized to make annual cost-of-living adjustments to the basic benefits to keep pace with inflation. In 2003 the rate of full-time educational benefits authorized for members or former members entitled to benefits under the Montgomery GI Bill—Selected Reserve was $272 per month.

The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §1076, 110 Stat. 186, 450–51 (1996), provided authority to increase the educational assistance to members of the Selected Reserve having skills or specialties "in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel" by a maximum of $350 per month. As administered, the Secretaries of the military departments designate the skills, specialties, and units eligible for this higher rate of educational assistance.[59]

The National Defense Authorization Act for Fiscal Year 2008 amends chapter 1606 of Title 10 of the U.S. Code to add new section 16131a to authorize payment on an accelerated basis of educational assistance for members of the Selected Reserve. Members are required to be (1) enrolled in an approved program of education not exceeding two years and not leading to an associate, bachelor, masters, or other degree; and (2) charged tuition and fees that exceed 200 percent of the monthly rate of educational assistance allowance otherwise payable for members of the Selected Reserve. The Act sets the authorized amount of such assistance at the lesser of: (1) 60% of the established charges for that program of education; or (2) the aggregate amount of educational assistance to which the person remains entitled. The Act also requires the accelerated payments to be charged against any remaining educational assistance of such members.[60]

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[55] H.R. Rep. No. 101-121 (Committee on Armed Services), at 281, accompanying H.R. 2461, 101st Congress, 1st Session (1989).

[56] H.R. Rep. No. 101-331 (Committee of Conference), at 589, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

[57] At the same time as it included vocational-technical training benefits in the educational-assistance program for members of the Selected Reserve, the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §644, 103 Stat. 1352, 1458 (1989), required the Secretary of Defense to submit a report to Congress "not later than March 15, 1990," on the "desirability and the practicability of requiring members of the reserve components, as a condition of participating in the educational assistance program ... [for members of the Selected Reserve], to sustain a reduction in pay in the same manner as applies to members of the Armed Forces on active duty who participate in the educational assistance program" under the Montgomery GI Bill Act of 1984. See text of H.R. Rep. No. 100-22, Part 2 (Committee on Armed Services), at 2–3, accompanying H.R. 1085, 100th Cong., 1st sess. (1987), quoted in the text accompanying footnote 49, above, for a brief description of the "reduction in pay" members of the active-duty forces "sustain" to participate in the New GI Bill.

[58] Codified at 10 U.S.C. §16131(b)(1)(D).

[59] Codified at 10 U.S.C. §16131(j). See H.R. Rep. No. 104-131 (Committee on National Security), at 220, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); H.R. Rep. No. 104-406 (Committee of Conference), at 855, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); and H.R. Rep. No. 104-450 (Committee of Conference), at 845, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[60] National Defense Authorization Act for Fiscal Year 2008, Pub.L.No. 110-181, Title V, Subtitle C, Sec. 528 (a), 122 Stat. 3, 105 (2008).

The Supplemental Appropriations Act, 2008 amends chapter 1606 of Title 10 of the U.S. Code to add new section 16132a to authorize members of the Selected Reserve of the Ready Reserve who are entitled to Montgomery GI Bill educational assistance, have completed at least 6 years of service in the Armed Forces, and agree to at least four more years of Service to transfer to spouse and/or children up to 36 months of entitlement.[61]

The National Defense Authorization Act for 2008 amends 10 U.S.C. 16133 to entitle to educational assistance certain members of the Selected Reserve affected by force shaping initiatives during FY2007-2014.[62]

The National Defense Authorization Act for 2012 repeals 10 U.S.C. 16137, which had required biennial reports to Congress by the Department of Defense on the operation of the educational assistance program established by this chapter.[63]

Cost: For the cost of the reserve bonuses, special pays, and assistance programs described in this chapter from the time of their establishment to 2016, see tables II-33A–F, below.

Table II-33A. Reenlistment Bonus

Members of the Selected Reserve, 1978–2016

Fiscal Year	Total Personnel	Cost ($000)
1978	2,108	1,654
1979	10,278	6,441
1980	20,280	10,496
1981	44,592	22,696
1982	50,570	26,703
1983	91,028	35,929
1984	122,972	37,307
1985	124,186	40,112
1986	39,149	22,974
1987	29,713	14,962
1988	14,071	7,723
1989	19,820	11,213
1990	21,389	10,640
1991	67,988	20,510
1992	77,733	23,037
1993	54,702	19,344
1994	52,864	20,260
1995	53,586	19,244
1996	18,260	27,366
1997	17,656	31,076
1998	40,632	35,677
1999	67,695	42,833
2000	46,198	36,683

[61] Supplemental Appropriations Act, 2008, Pub. L. No. 110-252, Title V, Sec. 5006(b), 122 Stat. 2323, 2381 (2008).
[62] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title V, Subtitle C, Sec. 529, 122 Stat. 3, 110 (2008).
[63] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title X, Sec. 1061(29)(A), 125 Stat. 1298, 1584 (2011).

Fiscal Year	Total Personnel	Cost ($000)
2001	47,414	46,291
2002	52,981	46,874
2003	53,939	49,677
2004	45,975	41,419
2005	138,290	314,744
2006	102,396	490,513
2007	88,976	585,303
2008	170,686	387,981
2009	29,175	179,308
2010	27,299	111,731
2011	17,336	80,074
2012	27,294	119,669
2013	39,112	211,791
2014	39,176	191,003
2015	66,958	306,867
2016[1]	56,849	339,673

[1] Estimate.

Note: No data available for the Marine Corps Reserve for FY14–FY17.

Sources (2009–16 data): Department of the Air Force, Air National Guard Personnel and Air Force Reserve Personnel Budget Estimates (FY2011–17); Department of the Army, Army National Guard Personnel and Army Reserve Personnel Budget Estimates (FY2011–17); Department of the Navy, Marine Corps Reserve Personnel and Navy Reserve Personnel Budget Estimates (FY2011–17).

Table II-33B. Enlistment Bonus
Members of the Selected Reserve, 1979–2016

Fiscal Year	Total Personnel	Cost ($000)
1979	7,131	$5,348
1980	17,133	12,850
1981	27,261	17,165
1982	40,875	23,759
1983	55,972	27,003
1984	73,841	36,883
1985	72,468	36,247
1986	37,211	33,879
1987	32,251	29,316
1988	49,728	45,417
1989	36,888	34,078
1990	33,064	30,861
1991	97,012	50,446
1992	84,216	46,735
1993	60,576	42,866
1994	63,411	37,747
1995	45,980	27,836

Fiscal Year	Total Personnel	Cost ($000)
1996	34,627	26,456
1997	20,018	22,751
1998	28,343	24,363
1999	23,401	25,460
2000	34,820	41,782
2001	41,664	92,482
2002	63,774	120,382
2003	79,783	116,488
2004	75,929	131,189
2005	86,635	206,896
2006	75,430	219,974
2007	90,851	369,155
2008	107,894	587,241
2009	139,847	924,551
2010	103,615	651,796
2011	79,281	521,587
2012	73,623	370,428
2013	40,244	191,447
2014	31,806	136,003
2015	46,310	141,094
2016[1]	31,812	135,378

[1] Estimate.

Sources (2009–16 data): Department of the Air Force, Air National Guard Personnel and Air Force Reserve Personnel Budget Estimates (FY2011–17); Department of the Army, Army National Guard Personnel and Army Reserve Personnel Budget Estimates (FY2011–17); Department of the Navy, Marine Corps Reserve Personnel and Navy Reserve Personnel Budget Estimates (FY2011–17).

Table II-33C. Selected Reserve Affiliation Bonus, 1981–2016

Fiscal Year	Total Personnel	Cost ($000)
1981	4,537	1,622
1982	8,864	2,867
1983	15,217	5,319
1984	11,583	4,129
1985	8,802	3,213
1986	8,036	3,075
1987	12,725	8,888
1988	13,563	11,432
1989	14,056	10,900
1990	10,483	10,368
1991	12,038	12,404
1992	18,174	24,136
1993	31,452	13,382
1994	18,927	22,190
1995	16,583	19,615

Fiscal Year	Total Personnel	Cost ($000)
1996	5,532	13,398
1997	1,855	10,531
1998	8,581	10,072
1999	10,514	10,378
2000	6,546	6,337
2001	8,180	8,001
2002	8,832	8,695
2003	10,378	10,320
2004	4,110	5,611
2005	6,143	8,934
2006	12,037	63,623
2007	20,510	41,347
2008	8,757	68,922
2009	12,342	87,192
2010	7,488	47,066
2011	10,312	61,008
2012	5,391	37,431
2013	5,765	28,947
2014	4,619	32,055
2015	20,987	65,977
2016[1]	8,257	40,675

[1] Estimate.

Sources (2009–16 data): Department of the Air Force, Air National Guard Personnel and Air Force Reserve Personnel Budget Estimates (FY2011–17); Department of the Army, Army National Guard Personnel and Army Reserve Personnel Budget Estimates (FY2011–17); Department of the Navy, Marine Corps Reserve Personnel and Navy Reserve Personnel Budget Estimates (FY2011–17).

Table II-33D. Total All Reserve Bonus Programs, 1978–2016

Fiscal Year	Total Personnel	Cost ($000)
1978	2,108	$1,654
1979	17,409	11,789
1980	37,413	23,346
1981	76,390	41,483
1982	100,309	53,329
1983	162,217	68,251
1984	208,396	78,319
1985	205,456	79,572
1986	84,396	59,928
1987	74,689	53,166
1988	77,362	64,572
1989	70,764	56,191
1990	64,936	51,869
1991	177,038	83,360
1992	180,123	93,908
1993	146,730	75,592

Fiscal Year	Total Personnel	Cost ($000)
1994	135,202	80,197
1995	116,149	67,195
1996	58,419	67,220
1997	39,529	64,358
1998	77,556	70,112
1999	101,610	78,671
2000	87,564	84,802
2001	97,258	146,774
2002	125,587	175,951
2003	144,100	176,485
2004	126,014	178,219
2005	231,068	530,574
2006	189,863	774,110
2007	200,337	995,805
2008	287,337	1,044,144
2009	181,364	1,191,051
2010	138,402	810,593
2011	106,929	662,669
2012	106,308	527,528
2013	85,121	432,185
2014	75,601	359,061
2015	134,255	513,938
2016[1]	96,918	515,726

[1] Estimate.

Sources (2009–16 data): Department of the Air Force, Air National Guard Personnel and Air Force Reserve Personnel Budget Estimates (FY2011–17); Department of the Army, Army National Guard Personnel and Army Reserve Personnel Budget Estimates (FY2011–17); Department of the Navy, Marine Corps Reserve Personnel and Navy Reserve Personnel Budget Estimates (FY2011–17).

Table II-33E. Educational Assistance, Members of the Selected Reserve, 1979–2016

Fiscal Year	Total Personnel	Cost ($000)
1979	256	$129
1980	266	126
1981	1,797	1,589
1982	5,029	4,750
1983	13,716	8,224
1984	15,951	10,040
1985	21,265	12,888
1986	---	107,971
1987	---	160,417
1988	---	107,502
1989	---	79,029
1990	---	85,445
1991	---	77,156
1992	---	77,617

Fiscal Year	Total Personnel	Cost ($000)
1993	---	45,166
1994	---	36,337
1995	---	60,198
1996	---	83,003
1997	---	100,205
1998	---	96,174
1999	---	103,360
2000	---	113,864
2001	---	132,423
2002	---	147,710
2003	---	189,989
2004	---	178,008
2005	67,514	204,937
2006	112,537	407,644
2007	135,291	332,580
2008	261,142	357,915
2009	204,610	530,826
2010	207,252	308,825
2011	167,402	190,602
2012	124,235	148,096
2013	90,331	166,851
2014	73,257	54,106
2015	83,194	61,449
2016[1]	86,134	67,191

--- No data available.

[1] Estimate.

Sources (2009–16 data): Department of the Air Force, Air National Guard Personnel and Air Force Reserve Personnel Budget Estimates (FY2011–17); Department of the Army, Army National Guard. Personnel and Army Reserve Personnel Budget Estimates (FY2011–17); Department of the Navy, Marine Corps Reserve Personnel and Navy Reserve Personnel Budget Estimates (FY2011–17).

Table II-33F. Total Cost, All Reserve Incentive Programs, 1978–2016

Fiscal Year	Cost ($000)
1978	$1,654
1979	11,918
1980	23,472
1981	46,993
1982	58,079
1983	76,475
1984	89,710
1985	95,697
1986	167,899

Fiscal Year	Cost ($000)
1987	213,583
1988	172,074
1989	135,220
1990	137,314
1991	160,516
1992	171,525
1993	120,758
1994	116,534
1995	127,393
1996	150,223
1997	164,563
1998	166,286
1999	182,031
2000	198,666
2001	279,197
2002	323,661
2003	366,474
2004	356,227
2005	735,511
2006	1,181,754
2007	1,328,385
2008	1,402,059
2009	1,434,786
2010	1,169,810
2011	835,399
2012	657,587
2013	631,161
2014	400,487
2015	528,407
2016[1]	528,519

[1] Estimate.

Sources (2009–16 data): Department of the Air Force, Air National Guard Personnel and Air Force Reserve Personnel Budget Estimates (FY2011–17); Department of the Army, Army National Guard Personnel and Army Reserve Personnel Budget Estimates (FY2011–17); Department of the Navy, Marine Corps Reserve Personnel and Navy Reserve Personnel Budget Estimates (FY2011–17).

Chapter II.E.2.g.
Special Duty Assignment Pay and Proficiency Pay

Legislative Authority: 37 U.S.C. §307.

Purpose: To provide an additional monthly payment both as a retention incentive to enlisted personnel required to perform extremely demanding duties or duties demanding an unusual degree of responsibility and as an inducement to persuade qualified personnel to volunteer for such duties.

Background: The practice of paying military personnel in different career fields differently is well established in the history of military compensation. The Navy long employed an occupational system of enlisted "ratings," each with its own rate of pay. Job-related "transient additions to pay" were also common. The Army paid "specialist pay" to enlisted personnel in selected skills until 1942.

The Defense Advisory Committee on Professional and Technical Compensation (the so-called "Cordiner Committee") coined the term "proficiency pay," and its 1957 recommendations led to the establishment of such a pay in the Act of May 20, 1958 (Uniformed Services Pay Act of 1958), Pub. L. No. 85-422, §1(8), 72 Stat. 122, 125–26 (1958). The Cordiner Committee's original recommendation concerning the structure of the proposed pay contemplated the advancement of an affected enlisted member of the armed forces to a higher pay grade without a concomitant promotion in military rank. While the 1958 Act permitted the Secretaries of the various military departments to choose such a "proficiency pay grade" method for compensating members "designated as ... specially proficient in a military skill," it also permitted the Secretaries to make a special payment of as much as $150 a month to such members, this pay being in addition to any other pays and allowances to which affected members were entitled. The latter method was the method chosen by all the services, and for as long as the "proficiency pay" program formally existed, it was the only one of the two technically permitted methods officially sanctioned by the *Department of Defense Military Pay and Allowances Entitlements Manual*, the predecessor of the current *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R. The proficiency pay grade method was in fact never used.

Until enactment of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §623(b)(1), 98 Stat. 2492, 2541–2542 (1984), two different types of proficiency pay, each with its own objectives, were authorized: shortage specialty proficiency pay and special duty assignment proficiency pay.[1] The former was designed to retain personnel serving in critical military skill specialties experiencing retention problems; special duty assignment proficiency pay was designed to encourage qualified personnel to undertake duties, outside their normal career fields, requiring volunteers and for which there was a shortage.

Shortage specialty pay was the most important category of the proficiency-pay program until the Selective Reenlistment Bonus (SRB) was created and later proved to be an effective incentive for reenlistment and improved career force retention.[2] When the SRB program was initially implemented, the Secretary of Defense determined that, starting in fiscal year 1975, shortage specialty pay would be reduced to about one-quarter of the 1974 level. Except for residual termination payments, it was paid only to Navy

[1] A third type of proficiency pay—"Superior Performance (Proficiency Pay)"—was authorized until 1976. This pay was designed to reward personnel who demonstrated outstanding effectiveness in skills or duties that were not eligible for either shortage specialty or special duty assignment proficiency pay. Congress removed part of the superior performance pay funds from fiscal year 1975 service budgets, with the result that payments were curtailed. The superior performance pay subprogram was suspended completely after fiscal year 1975; no funds for it were requested in the fiscal year 1976 budget or at any time since.

[2] For a discussion of the Selective Reenlistment Bonus program, see Chapter II.E.2.c., "Selective Reenlistment Bonus," above.

personnel with nuclear power training and saturation diving specialties and to Air Force personnel in two medical technician skills.

Until the proficiency-pay program was altered by the 1985 Authorization Act, special duty assignment proficiency pay was the major proficiency-pay subprogram, both in terms of the number of people involved and the cost. Special duty assignment proficiency pay was paid to personnel performing such voluntary duties as recruiters, drill instructors, or reenlistment NCOs, in amounts ranging from $30 to $150 a month.

The Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §623(b)(1), 98 Stat. 2492, 2541–2542 (1984), replaced the existing proficiency-pay authority with a new program specifically limited to special duty assignments. While effectively continuing the preceding "special duty assignment proficiency pay" program, the word "proficiency" was dropped from the program title. Under the revised "special duty assignment pay" program, an enlisted member could be paid "special duty assignment pay" at a "monthly rate not to exceed $275" when required to perform "extremely difficult" duties or duties "involving an unusual degree of responsibility in a military skill." The amended authority was administered by the Secretaries of the different military departments, and they were required to designate the skills for which the new pay was authorized and the criteria for determining which members were eligible for special duty assignment pay in each skill. Regulations relating to the administration of the program were specifically placed under the jurisdiction of the Secretary of Defense.

The effect of thus restating the "special duty assignment pay" authority of the pre-1985 Authorization Act era was to increase the amount of special pay that could be paid to an individual member. Nevertheless, the House–Senate Conference Committee noted that "these enhanced benefits [should] be accommodated within the amounts [already requested] for special pays for fiscal year 1985."[3]

The amendment to the existing "proficiency pay" program came about as a result of a floor amendment put forward by Senator Tower, which was added to the Senate-sponsored version of the 1985 Defense Authorization Bill, S. 2723, 98th Cong., 2d sess. (1984), and subsequently to the resulting authorization act. As Senator Tower stated the purpose of his amendment:

> ... I am offering an amendment to give the services increased authority to better target certain special pays for enlisted members....
>
> ... [M]y amendment would replace the existing authority of proficiency pay with a new authority for the services to pay special pay of up to $275 a month to enlisted members who are required to perform extremely demanding duties or duties demanding an unusual degree of responsibility. For example, the Navy assigns petty officers as surface nuclear propulsion plant operators. The responsibility placed upon these young men is tremendous and far exceeds that expected of most midlevel enlisted personnel. This new authority would permit the Secretaries of the military departments to discretely target limited manpower dollars to those people qualified to perform the unusually demanding duties, thereby increasing the likelihood of retaining these personnel on active duty.
>
> ... It simply would permit the service more flexibility to target retention [to] the very, very critically needed personnel, particularly in the nuclear engineering field where it is very difficult to retain these people when the compensation they could get in the private sector would be enormously greater.[4]

The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §619(a), 110 Stat. 186, 363 (1996), authorized an increase in the rate of special duty assignment pay for members serving

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[3] H.R. Rep. No. 98-1080 (Committee of Conference), at 298, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).
[4] 130 Cong. Rec. 16138–16139 (1984) (130 Cong. Rec. S7143–S7144 (daily ed. June 13, 1984)) (statement of Senator Tower).

as military recruiters to a maximum of $375 per month. This increase was authorized, effective January 1, 1996,[5] [6] out of concern for the "financial hardships" experienced by members assigned to recruiting duties.[7]

The old "proficiency pay" program terminated and the new "special duty assignment pay" program became effective on October 1, 1984.[8] The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-156 (2000), added an entitlement of enlisted National Guard and other reserves not on active duty to receive special duty assignment pay under this program when those individuals are performing duty that would qualify an active member for such pay. Under this provision, members of the reserve component entitled to compensation for inactive-duty training are authorized to receive additional compensation amounting to 1/30 of the monthly special pay prescribed for active-duty members for each drill period performed during a month. The same authorization act raised the maximum monthly amount of special duty assignment pay from $275, which had been the maximum since 1985, to $600. The legislation eliminated the special provision for a higher maximum for members serving as recruiters, effectively setting a uniform ceiling for all members.

In 2008 Congress passed the National Defense Authorization Act for Fiscal Year 2008[9] consolidating more than 65 special and incentive pays and bonuses into eight general bonus authorities. The consolidation of legislative authorities is intended to simplify and reduce the costs of administering the special and incentive pays system while providing the services with greater flexibility to adjust compensation as required by circumstances. Under the consolidated pay authorities special duty assignment pay transitions to 37 U.S.C. § 352, Assignment Pay or Special Duty Pay. As of January 27, 2018, the authority to pay special duty assignment pay under 37 U.S.C. §307 expires.

In compliance with the transition to the Congressionally-mandated Consolidation of Special Pay, Incentive Pay, and Bonus Authorities process, the Under Secretary of Defense for Personnel and Readiness, advised the Congressional Defense Committees, in writing on July 10, 2017, that the Department of Defense discontinued using section 307, and transitioned to the pay authority in 37 U.S.C. §352(a). Department of Defense Instruction 1340.26, "Assignment and Special Duty Pays, September 25, 2017," is germane.

Current rates of pay authorized: Special duty assignment pay is authorized for enlisted members at a rate not to exceed $600 per month. Enlisted members qualifying for special duty assignment pay are paid according to the following schedule:

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[5] National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §619(b), 110 Stat. 186, (1996). See 10 U.S.C. §307 note.

[6] Although the increase was authorized by the 1996 Department of Defense Authorization Act for pay periods beginning January 1, 1996, the Department of Defense implemented the pay for all "production recruiters" beginning April 1, 1996. Memorandum of Assistant Secretary of Defense for Force Management Policy dated March 19, 1996; *cf.* DoD Instruction 1304.27. (The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186 (1996), was not enacted until February 10, 1996.)

[7] H.R. Rep. No. 104-131 (Committee on National Security), at 231, accompanying H.R. 1530, and S. Rep. No. 104-112 (Committee on Armed Services), at 256, accompanying S. 1026, 104th Cong., 1st sess. (1995); *cf.* H.R. Rep. No. 104-406 (Committee of Conference), at 816–17, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 807, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[8] Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §623(c), 98 Stat. 2492, 2542 (1984). See 37 U.S.C. §307 note.

[9] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 661, 122 Stat. 3, 163 (2008).

Special-Duty Assignment Pay for Enlisted Members[10]

Rank	Pay
SD-1	$75
SD-2	$150
SD-3	$225
SD-4	$300
SD-5	$375
SD-6	$450

Cost: For the cost of special duty assignment pay and proficiency pay from the time of their establishment to 2016, see tables II-34A–C, below.

Table II-34A. Special Duty Assignment Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	23,485	15,297
1973	26,487	16,866
1974	24,713	15,659
1975	70,980	62,835
1976	13,405	11,578
1977	23,245	25,828
1978	23,016	26,110
1979	22,811	28,889
1980	25,058	31,845
1981	33,082	45,317
1982	34,999	47,015
1983	35,725	48,602
1984	36,509	50,469
1985	52,035	64,202
1986	49,093	96,706
1987	52,916	111,456
1988	53,767	114,798
1989	54,193	117,901
1990	56,574	125,943
1991	55,584	128,214
1992	52,928	119,936
1993	49,841	109,563
1994	50,533	108,392
1995	50,320	109,017
1996	54,380	133,788
1997	51,326	138,441
1998	51,097	144,914
1999	51,717	147,208

[10] Department of Defense, Under Secretary of Defense (Comptroller), Financial Management Regulation, Volume 71: "Military Pay Policy–Active Duty and Reserve Pay," DoD 7000.14–R, April 2016, 8-3 to 8-4, http://comptroller.defense.gov/Portals/45/documents/fmr/Volume_07a.pdf.

Fiscal Year	Total Personnel	Cost ($000)
2000	52,331	153,507
2001	71,401	162,899
2002	60,974	170,402
2003	62,325	172,864
2004	58,862	219,065
2005	60,139	229,300
2006	65,541	248,186
2007	66,454	250,341
2008	69,436	262,990
2009	70,926	261,806
2010	70,716	266,641
2011	67,220	256,821
2012	65,225	250,176
2013	68,461	257,125
2014	68,717	253,513
2015	89,671	286,236
2016[1]	90,174	285,419

[1]Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Table II-34B. Shortage Specialty Pay, 1972–81

Fiscal Year	Total Personnel	Cost ($000)
1972	153,301	$125,998
1973	135,952	102,520
1974	106,205	70,384
1975	135,446	109,453
1976	36,496	38,259
1977	7,155	9,723
1978	6,840	9,503
1979	6,211	8,865
1980	7,253	9,662
1981	7,876	10,326

Note: After 1981 the Shortage Specialty Pay is included in Special Duty Assignment Pay.

Table II-34C. Superior Performance Pay, 1972–75

Fiscal Year	Total Personnel	Cost ($000)
1972	79,451	$28,602
1973	74,917	26,970
1974	80,894	36,211
1975	41,034	17,402

Note: The Superior Performance Proficiency Pay program was suspended in fiscal year 1976.

Chapter II.E.2.h.
Assignment Incentive Pay

Legislative Authority: 37 U.S.C. 307a.

Purpose: To provide an additional monetary incentive in the assignment process to encourage members to volunteer for difficult-to-fill or less desirable assignments, assignment locations, or certain assignment periods.

Background: Factors such as geographic location, type of job, and length of assignment make some assignments in the armed forces less desirable than others. The natural dynamics of the distribution process make certain assignments more difficult to fill, in spite of efforts to fill all assignments regardless of desirability. The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2569 (2002), provided for a new type of special pay, called assignment incentive pay (AIP), to be offered to volunteers for duty in hard-to-fill positions specifically designated by the Secretary concerned. The amount, which was originally limited to $1,500 per month, is payable in addition to any other pay and allowances to which the member is entitled. The initial legislation established a new subparagraph 307a in Title 37 of the United States Code.

The amount of such pay is determined by the Secretary concerned and is specified in the program plan and/or in a written agreement between the individual and the Secretary. The program stipulates the payment amounts, frequency of payment, duty station, and length of assignment. The amount designated for a given position may change over time and may vary by assignment or assignment situation. The National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 153 (2008), extended eligibility for retroactive assignment incentive pay to reserve members who had served for more than 22 months in a combat zone associated with Operating Enduring Freedom or Operation Iraqi Freedom between January 1, 2005, and January 19, 2007; the amount was set at $1,000. The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136 (2006), increased the monthly statutory maximum payable from $1,500 to $3,000. In addition, it authorized payment either in an up-front lump sum or in installments.

The National Defense Authorization Act for Fiscal Year 2008 authorizes the Secretary concerned to pay assignment incentive pay to a reserve member for each month, during the period beginning on January 1, 2005, through the end of any active-duty service in a combat zone associated with Operations Enduring Freedom or Iraqi Freedom, if such member served in excess of 22 months of qualifying service and makes such monthly incentive pay $1,000.[1]

Additionally, the National Defense Authorization Act for Fiscal Year 2008 consolidated more than 65 special and incentive pays and bonuses into eight general bonus authorities[2]. The consolidation of legislative authorities is intended to simplify and reduce the costs of administering the special and incentive pays system while providing the services with greater flexibility to adjust compensation as required by circumstances. Under the consolidated pay authorities' assignment incentive pay transitions to 37 U.S.C. § 352, Assignment Pay or Special Duty Pay, and the maximum monthly amount for assignment incentive pay was increased from $3,000 per month to $5,000 per month. As of January 27, 2018, the authority to pay assignment incentive pay under 37 U.S.C. §307a expires.

In compliance with the transition to the Congressionally mandated Consolidation of Special Pay, Incentive Pay, and Bonus Authorities process, the Under Secretary of Defense for Personnel and Readiness, advised the Congressional Defense Committees, in writing on July 10, 2017, that the Department of

[1] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 624, 122 Stat. 3, 153 (2008).
[2] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 661, 122 Stat. 3, 163 (2008).

Defense discontinued using section 307a, and transitioned to the pay authority in 37 U.S.C. §352(a). Department of Defense Instruction 1340.26, "Assignment and Special Duty Pays, September 25, 2017," is germane.

The authority to pay the assignment incentive bonus was extended in one-year increments through December 31, 2016.[3]

Current rates of pay authorized: Not to exceed $3,000 per month.

[3] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 615, 129 Stat. 726, 839 (2015).

Chapter II.E.2.i.
Hardship Duty Pay

Legislative Authority: 37 U.S.C. §305.

Purpose: To provide additional pay to personnel for performing duty designated by the Secretary of Defense as hardship duty, regardless if outside the United States, in recognition of the greater-than-normal rigors of such designated duty.

Background: The practice of paying something extra to military personnel serving outside the contiguous United States on account of such service originated in the extensive deployment of United States "beyond the seas" during the Spanish-American War. The Act of May 26, 1900, ch. 586, 31 Stat. 205, 211 (1900), provided for a special additional pay for Army personnel serving in Puerto Rico, Cuba, the Philippine Islands, Hawaii, or Alaska. Under the act, Army officers serving in any of the enumerated places became entitled to an additional 10 percent of their "pay proper," while Army enlisted personnel became entitled to an additional 20 percent. The Act of March 2, 1901, ch. 803, 31 Stat. 895, 903 (1901), extended this foreign duty pay[1] entitlement for Army personnel to service anywhere outside the United States and contiguous territories. The Act of March 3, 1901, ch. 852, 31 Stat. 1107, 1108 (1901), authorized similar additional pay for Navy officers and Marine Corps personnel. Although Hawaii, Puerto Rico, Panama, and the Canal Zone were thereafter from time to time excluded as foreign duty pay localities, the basic structure of the pay remained unchanged until repealed by the Act of June 10, 1922 (Joint Services Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §15, 42 Stat. 625, 632 (1922).[2] Foreign duty pay was not authorized from 1922 to 1942.

The Act of March 7, 1942, ch. 166, Pub. L. No. 77-490, §18, 56 Stat. 143, 148 (1942), revived foreign duty pay as a wartime measure and for the first time included Navy enlisted personnel within its scope. The act provided for commissioned officers to receive an additional 10 percent of base pay, and for warrant officers, enlisted personnel, and "nurses (female)" to receive an additional 20 percent, for service at any place outside the contiguous United States. A few months later, the Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §2, 56 Stat. 359, 360 (1942), enacted these foreign duty pay provisions into permanent law.

In 1948, at the request of the Secretary of Defense, the Advisory Commission on Service Pay, sometimes referred to as the Hook Commission, undertook the first comprehensive study of military compensation since 1908. In reviewing military compensation generally, and foreign duty pay in particular, the Hook Commission recommended that this latter pay be abolished for officers but continued, albeit in a modified form, for enlisted personnel. In support of this recommendation, the commission stated:

> The Commission has concluded that sea duty for naval personnel, as well as oversea duty for the Army and Air Force, although probably involving more inconvenience

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[1] Although denominated "special pay while on duty at certain places" under the law in effect immediately prior to enactment of the National Defense Authorization Act for Fiscal Year 1998, this special pay has been known by several different names over the years. To minimize the possibility of confusion, and to simplify the form of reference, it is referred to in this chapter by its most widely known name, "foreign duty pay," up to the discussion of the pay determined by the National Defense Authorization Act for Fiscal Year 1998. Thereafter, it is referred to by its current statutory nomenclature, "hardship duty pay."

[2] Because "double time" was linked to service in certain foreign localities, it has sometimes been thought of as a foreign duty pay of sorts. In fact, it was no such thing. Under "double time," enlisted personnel were permitted to count for retirement purposes twice the actual length of service performed by them in Puerto Rico and Hawaii before April 23, 1904, and in China, Cuba, the Philippines, Guam, Alaska, and Panama before August 24, 1912. As such, "double time" did not involve payment of any additional monies to personnel serving in the affected localities; rather, "double time", as a pay construct, was used "in computing length of service for retirement." See, e.g., Act of May 26, 1900, ch. 586, 31 Stat. 205, 209 (1900).

> than military activity ashore or at home, is a part of their normal career. As such, it does not parallel the highly unusual foreign assignment in industry or the Federal Civil Service for which an incentive premium is offered. Even here, the top administrator receives relatively little extra pay for an oversea position. Officers, especially, do not deserve extra pay for this type of duty, since the pay recommended for them is apportioned to their relative responsibility as executives and administrators, regardless of their site of operation. Additional compensation is unnecessary and undesirable for work which should be expected as a normal incident in a chosen career. Unusual expenses incurred by virtue of foreign or sea duty may be reimbursable under the Post and Duty Allowance recommended by the Commission.
>
> For enlisted personnel, the Commission proposes a flat rate increase, as in keeping with accepted industry practice for disagreeable or unpleasant work and as a morale factor. A percentage of pay increase for these duties bears no relation to the inconvenience felt by the individual nor is the unpleasantness in proportion to the grade or rating.[3]

Congress adopted the major portion of the Hook Commission's reasoning and recommendations concerning foreign duty pay in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §206, 63 Stat. 802, 811 (1949).[4] [5] The act eliminated authorization for foreign duty pay for officers entirely. In addition, it changed the way the entitlement was computed for enlisted personnel, establishing rates ranging from $8 for the lowest enlisted grade to $22.50 for the top enlisted grade. When set in 1949, these rates approximated 10 percent of enlisted basic pay. Because rates were not adjusted for the ensuing 48 years, over time foreign duty pay acquired a pronounced "token" quality. In recommending adoption of the provisions for foreign duty pay in the Career Compensation Act of 1949, ch. 681, *id*., the House Committee on Armed Services stated:

> The committee is in complete agreement with the Hook Commission that sea and foreign duty is part of the normal career of all members of the uniformed services. It especially recognizes that officers should not be compensated with special pay for overseas assignments which must be anticipated as part of an average career in the services.
>
> On the other hand, the committee also agrees with the Hook Commission that some small remuneration should be granted to enlisted personnel who serve at sea or in foreign stations because of the morale factor involved. In view of the pay increases provided in the

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[3] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay," December 1948, 28–29. (In recommending against continuation of foreign duty pay for officers, the commission noted, as indicated in the quoted material above, that "[u]nusual expenses incurred by virtue of foreign or sea duty may be reimbursable under the Post and Duty Allowance recommended by the Commission." *id*., at 29; *cf. id*., at 36–38 for the commission's discussion and recommendation of a "Post and Duty Allowance." Despite the Hook Commission's recognition of the possibility of higher costs or expenses incurred by personnel assigned to sea or foreign duty, including officers, Congress, in acting on the commission's recommendations, did not adopt any special allowance program—whether denominated a "Post and Duty Allowance" or otherwise—to assist affected personnel to defray such costs or expenses.)

[4] But see the parenthetical to footnote 3 to this chapter, above.

[5] Section 206 of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §206, 63 Stat. 802, 811 (1949), which dealt with foreign duty pay, also covered sea pay. After enactment of the Career Compensation Act of 1949, ch. 681, *id*., the sea and foreign duty pay provisions thereof were classified to 37 U.S.C. §237. See 37 U.S.C. §237 (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the sea and foreign duty pay provisions were codified at 37 U.S.C. §305. The Department of Defense Appropriation Authorization Act, 1979, Pub. L. No. 95-485, §804, 92 Stat. 1611, 1620–1621 (1978), removed the sea pay provisions from 37 U.S.C. §305 and established a new "career sea pay" program, codified at 37 U.S.C. §305a. Under this latter program, special rates of pay were established for career sea duty, and these rates were substantially in excess of the rates applicable to foreign duty. For an explanation of the career sea pay program, and the reasons for its adoption, see Chapter II.D.3.d. hereof, "Special Pay for Career Sea Duty," above.

> bill, the committee is of the opinion that the sums provided for sea and foreign duty for enlisted personnel are sufficient.[6]

In 1963 the Department of Defense proposed that foreign duty pay be eliminated—along with sea duty pay, which was at the time also governed by 37 U.S.C. §305.[7] While Congress rejected the proposal, it did, in the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §12(a), 77 Stat. 210, 217 (1963), change the structure of the pay. Under this restructuring, enlisted members serving outside the contiguous United States were not automatically entitled to foreign duty pay. Instead, the Secretary of Defense was to designate the areas for which the pay was authorized. Congress indicated that factors such as undesirable climate, lack of normal community facilities, and accessibility of location are criteria that should be used in making such designations. Because of differences in climate, amenities, or accessibility, some parts of a "foreign country" were commonly designated for foreign duty pay while other parts of the same country were not. The law specified that foreign duty pay was not to be paid to an individual for duty in a state, Puerto Rico, the Virgin Islands, a foreign country, or a possession of a foreign country of which that individual was a resident. The amounts payable to enlisted personnel for under the original legislation for foreign duty pay, which were retained until the passage of the National Defense Authorization Act for Fiscal Year 1998, were as follows:

Pay Grade	Foreign Duty Pay
E-9	$22.50
E-8	$22.50
E-7	$22.50
E-6	$20.00
E-5	$16.00
E-4	$13.00
E-3	$9.00
E-2	$8.00
E-1	$8.00

At the time the legislative authority for foreign duty pay was replaced by an expanded pay authority in the National Defense Authorization Act for Fiscal Year 1998, locations in the following countries, states, or regions were designated for foreign duty pay: Afghanistan, Alaska, Algeria, Antarctica, Ascension Island, Australia, Azores, Bahamas, Bahrain, Bangladesh, Belgium, Belize, Bolivia, Brazil, Bulgaria, Burkina Faso, Burma, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Ceylon, Chad, Chagos Archipelago, China, Colombia, Congo, Costa Rica, Crete, Cuba, Cyprus, Czechoslovakia, Djibouti, Dominican Republic, Ecuador, Egypt, Eleuthera Island, El Salvador, Eniwetok, Ethiopia, Finland, Gabon, the former German Democratic Republic, Ghana, Greece, Greenland, Grenada, Guam, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Johnston Island, Jordan, Kenya, Korea, Kosrae Island, Kuwait, Kwajalein, Laos, Lebanon, Liberia, Mahe Island, Malagasy Republic (Madagascar), Malawi, Malaysia, Mali, Malta, Mariana Islands, Mauritius, Mexico, Midway Islands, Morocco, Mozambique, Namibia, Nepal, Netherlands Antilles, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Phoenix Islands, Poland, Ponape, Puerto Rico, Qatar, Romania, Rwanda, Saipan, Sicily, Samoa, Sardinia, Saudi Arabia, Scotland, Senegal, Sierra Leone, Singapore, Somalia, Spain, Sudan, Suriname, Sweden, Syria, Taiwan, Tanzania, Thailand, Togo, Truk Atoll, Tunisia, Turkey, Turks and Caicos Islands, Uganda, United Arab Emirates, former U.S.S.R., Venezuela, Vietnam, Wake Island, Yemen, former Yugoslavia, Zaire, Zambia, and Zimbabwe.

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[6] H.R. Rep. No. 779 (Committee on Armed Services), at 16, accompanying H.R. 5007, 81st Cong., 1st sess. (1949). Also see S. Rep. No. 733 (Committee on Armed Services), at 19, accompanying H.R. 5007, 81st Cong., 1st sess. (1949).
[7] See footnote 5 to this chapter, above.

The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1789 (1997), made significant changes in the scope of 37 U.S.C. §305. The act eliminated the "token" quality of special payment for this type of duty by prescribing a maximum monthly payment of $300 for members on duty in places designated as hardship duty locations. No differentiation by grade was prescribed. The act eliminated the restriction of eligibility for such pay to enlisted members by applying the pay simply to "a member of the uniformed service who is entitled to basic pay," and it lifted the prohibition on paying hardship duty location pay for duty in areas where the member was a resident and the prohibition on receiving this pay together with sea pay during the same service period. The legislation also changed the nomenclature of the special pay, replacing "foreign duty pay" with "hardship duty location pay," in keeping with the new stipulation that designated duty locations could be either within or outside the United States. The National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 2035 (1998), made another change of nomenclature, from "hardship duty location pay" to "hardship duty pay."

As a result of the expanded statutory authority provided in the National Defense Authorization Acts for Fiscal Years 1998 and 1999, as of September 2004 hardship duty pay was paid to members of the uniformed services assigned to Joint Task Force Full Accounting, Central Identification Lab-Hawaii, and the Defense Prisoner of War/Missing Personnel Office, for performance of hardship duty in remote, isolated areas to investigate or recover the remains of U.S. service members lost in past wars. Hardship duty pay–mission (HDP–M) remained in place as of 2009.[8]

Hardship duty pay also is being authorized to members in countries and other jurisdictions of the world in designated hardship duty locations (places where living conditions are substantially below that which members generally experience in the United States.

As of 2010, military personnel were being paid HDP for duties designated as hardship duty based on the arduousness of the mission (hardship duty pay–mission (HDP–M)) and based on the arduous quality-of-life (QoL) living conditions in designated locations (hardship duty pay–location (HDP–L)).

Between April 2004 and November 2008, an additional $200 per month in hardship duty pay was paid to military members for each month they were involuntarily extended in Iraq, Afghanistan, and certain theater units (units that routinely conduct operations or support units that conduct operations in Iraq but are not based in Iraq) beyond 12 months of boots-on-the ground (BoG).

Hardship duty pay was expanded to include a tempo element (HDP–T) in October 2008. Specifically, a mobilization or deployment tempo that requires a member to perform duties in an operational environment for periods that exceed rotation norms, such as voluntary or involuntary rotations that are frequent or that involve extensions beyond established goals, is designated as hardship duty for purposes of paying HDP–T. Rotation norms are based on guidance from the Secretary of Defense and the Secretaries of the military departments. The Secretaries of the military departments may establish HDP–T programs under guidelines established herein.

In 2009 the following were the areas designated for hardship duty pay: Afghanistan, Alaska, Albania, Algeria, American Samoa, Angola, Antarctic Region, Antigua, Arctic Region, Armenia, Ascension, Australia, Azerbaijan, Azores, Bahamas, Bangladesh, Barbados, Belarus, Belize, Benin, Bolivia, Bosnia-Herzegovina, Botswana, Brazil, Brunei, Bulgaria, Burkina, Burma, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chagos Archipelago, China, Colombia, Congo, Congo (Democratic Republic of), Cook Islands, Costa Rica, Cote D'Ivoire, Croatia, Cuba, Cyprus, Djibouti, Dominican Republic, East Timor, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Fiji, Gabon, Gambia, Georgia, Ghana, Greece, Greenland, Grenada, Guatemala, Guinea, Guinea Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Israel, Jamaica, Johnston Island, Jordan,

[8] United States, Department of Defense, *DoD Financial Management Regulation: Summary of Major Changes to DoD 7000.14-R*, Volume 7A, Chapter 17, "Special Pay Hardship Duty," February 2009, http://www.defense link.mil/comptroller/fmr/07a/07a_17.pdf.

Kazakhstan, Kenya, Korea (Democratic Republic of), Korea (Republic of), Kuwait, Kyrgyzstan, Laos, Latvia, Lebanon, Lesotho, Liberia, Libya, Lithuania, Macedonia, Madagascar, Malawi, Malaysia, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Mongolia, Mozambique, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Puerto Rico, Qatar, Romania, Russia, Rwanda, Samoa (formerly Western Samoa), Sao Tome and Principe, Saudi Arabia, Senegal, Serbia (Kosovo Province, Serbia, and Montenegro), Sierra Leone, Slovakia, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Swaziland, Syria, Taiwan, Tajikistan, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, Ukraine, United Arab Emirates, Uzbekistan, Vanuatu, Venezuela, Vietnam, Western Sahara, Yemen, Zambia, Zimbabwe.[9]

The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136 (2006), authorized an increase in the maximum monthly rate of hardship duty pay from $300 to $750. The National Defense Authorization Act for Fiscal Year 2008 increased the maximum monthly rate to $1,500 and allowed this payment to be made in a lump sum.[10]

In 2008 Congress passed the National Defense Authorization Act for Fiscal Year 2008[11] consolidating more than 65 special and incentive pays and bonuses into eight general bonus authorities. The consolidation of legislative authorities is intended to simplify and reduce the costs of administering the special and incentive pays system while providing the services with greater flexibility to adjust compensation as required by circumstances. Under the consolidated pay authorities hardship duty pay transitions to 37 U.S.C. § 352, Assignment Pay or Special Duty Pay. As of January 27, 2018, the authority to pay special duty assignment pay under 37 U.S.C. §305 expires.

In compliance with the transition to the Congressionally mandated Consolidation of Special Pay, Incentive Pay, and Bonus Authorities process, the Under Secretary of Defense for Personnel and Readiness, advised the Congressional Defense Committees, in writing on July 10, 2017, that the Department of Defense discontinued using section 305, and transitioned to the pay authority in 37 U.S.C. §352(a). Department of Defense Instruction 1340.26, "Assignment and Special Duty Pays, September 25, 2017," is germane.

Current rate of payment: The maximum monthly rate of payment is $1,500.

Cost: For the cost of hardship duty pay from its establishment to 2016, see tables II-35A–B, below.

Table II-35A. Certain Places Duty Pay Annual Cost, 1972–1998

Year	Total Personnel (enlisted only)	Cost ($000)
1972	386,581	66,349
1973	242,295	42,307
1974	203,261	34,912
1975	193,212	33,574
1976	181,155	30,919
1977	154,723	26,408

[9] Summary of Major Changes to DoD 7000.14-R, Volume 7A, Chapter 17, "Special Pay Hardship Duty."
[10] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 617, 122 Stat. 3, 150 (2008).
[11] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 661, 122 Stat. 3, 163 (2008).

Year	Total Personnel (enlisted only)	Cost ($000)
1978	154,282	25,802
1979	154,245	26,003
1980	153,534	26,126
1981	155,915	26,297
1982	156,337	26,196
1983	134,495	23,170
1984	123,831	21,693
1985	120,315	21,140
1986	119,087	20,935
1987	120,199	21,014
1988	119,988	21,080
1989	109,971	19,370
1990	111,817	19,648
1991	277,250	48,835
1992	104,591	18,468
1993	93,687	16,670
1994	88,784	15,792
1995	89,708	15,757
1996	93,353	16,539
1997	84,084	14,745
1998	39,690	7,073

Note: Certain Places Duty Pay (Foreign Duty Pay) was terminated and switched to Hardship Duty Pay and Hardship Duty Pay–Location (HDP–L), after 2001.

Table II-35B. Hardship Duty Pay (HDP) and Hardship Duty Pay–Location (HDP–L), 1998–2016

Year	Total Personnel	Cost ($000)
1998	60,032	11,459
1999	10,880	1,892
2000	58,938	13,113
2001	85,110	48,992
2002	98,512	70,292
2003	253,202	275,199
2004	302,346	415,133
2005	231,352	305,022
2006	214,957	302,046
2007	317,906	393,805
2008	260,887	428,612
2009	282,286	463,020
2010	200,248	314,110
2011	199,954	310,355
2012	147,782	222,644
2013	103,457	159,636

Year	Total Personnel	Cost ($000)
2014	79,565	118,753
2015	63,628	101,677
2016[1]	32,930	56,960

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Note: Starting in 2001, Hardship Duty Pay (HDP) and Hardship Duty Pay–Location (HDP–L) are payable to both officers and enlisted personnel of the active and reserve component. Rates are payable in increments of $50, $100, or $150 a month based on the level of hardship in a given area.

Chapter II.E.2.j.
Overseas Duty Extension Pay

Legislative Authority: 37 U.S.C. §314.

Purpose: To provide an incentive for enlisted personnel in certain critical skill classifications to extend tours of duty overseas for the convenience of the government.

Background: The Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §5(a)(1) and (b)(1), 94 Stat. 3359, 3366–3367 (1980), added two new provisions to deal with shortages of critical skills the military was experiencing with certain enlisted members assigned to tours of duty overseas. The first of the two provisions, which authorized a special pay for enlisted members of the armed forces in certain critical skill specialties who agreed to extend tours of duty overseas for at least a year, is codified, as amended, at 37 U.S.C. §314.[1] [2] The second, which authorized certain "rest and recuperative absence" benefits (more fully described below), is codified at 10 U.S.C. §705.[3] [4] The provisions in question were adopted to provide incentives to "assist in alleviating a problem of manning skills in which the majority of the skill requirements are in overseas areas."[5] Congress went on to note that the skill shortages were significant enough "[i]n many instances ... [to] result ... in members being required to be reassigned overseas after less than 24 months in the United States" and that this increased frequency of overseas assignment was "cited by many NCOs as their reason for leaving the service."[6]

To address this problem, the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., §5(a)(1), 94 Stat. 3366, authorized the payment of overseas duty extension pay, at a rate not to exceed $50 per month "for duty performed during the period of the extension," to enlisted members of the armed forces who, after completion of tours of duty overseas in certain critical skill specialties,[7] agreed to extend such tours for at least one full year. The "rest and recuperative absence" provisions of the Military Pay and Allowances Benefits Act, Pub. L. No. 96-579, id., §5(b)(1), 94 Stat. 3366–3367, incorporated the same eligibility criteria and authorized one of two "benefits" to eligible members—either a period of "rest and recuperative absence" of not more than 30 days or a similar absence not to exceed 15 days but with the provision of round-trip transportation, at government expense, between the overseas duty station involved and the "nearest port" in the United States.[8] A person granted rest and recuperation under 10 U.S.C. §705

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[1] Though denominated "Special pay: Qualified enlisted members extending duty at designated locations overseas," the pay is referred to herein as "overseas duty extension pay."

[2] While most of the provisions of Title 37, United States Code, apply generally to members of the uniformed services, the provisions for overseas duty extension pay in 37 U.S.C. §314 apply only to members of the armed forces, and even then, only to enlisted members.

[3] The short-form reference to the benefits made available in 10 U.S.C. §705—in short, the section heading—is "Rest and recuperative absence for qualified enlisted members extending duty at designated locations overseas."

[4] As was true with respect to overseas duty extension pay, the rest and recuperative absence provisions of 10 U.S.C. §705 apply only to enlisted members of the armed forces. See footnote 2 to this chapter, above.

[5] H.R. Rep. No. 96-1230 (Committee on Armed Services), at 6–7, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[6] H.R. Rep. No. 96-1230 (Committee on Armed Services), at 7, accompanying H.R. 7626, 96th Cong., 2d sess. (1980). Also see S. Rep. No. 96-1051 (Committee on Armed Services), at 5–6, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[7] The skills affected are to be specially designated by the Secretaries of the various armed forces in keeping with the purposes underlying the authorization of the special pay.

[8] As initially proposed, the "rest and recuperative absence" provisions would have allowed a third alternative benefit—namely, the provision of round-trip transportation, again at government expense, between a member's duty station and the United States for both the affected member and dependents, but with no additional leave authorized. This benefit was deleted, however, because of the Senate's concern that, if anything, it would provide an incentive for enlisted personnel to take their dependents on overseas tours of duty, whereas there was, in fact, at least in the

with respect to a given overseas duty extension agreement could not receive overseas duty extension pay under 37 U.S.C. §314 for the same extension. On the other hand, if a given member were granted a request for rest and recuperation under 10 U.S.C. §705, any period of absence within the amount allowed by the provision in question was not to be charged against leave the member would otherwise be entitled to. Before granting a member's request for "rest and recuperative absence," the Secretary of the appropriate department is required to make a special determination that the member's absence under the program will "not adversely affect combat or unit readiness."

As reflected in Congressional Budget Office estimates, the provision of the overseas duty extension incentives in question was expected to result in a net cost saving to the government of $21.6 million in fiscal year 1981, resulting mainly from lower costs associated with fewer permanent change of station (PCS) moves, leave, and travel that year, but would have a positive cost of $3.0 million in fiscal year 1982, resulting from the delayed PCS costs of personnel ending tour extensions.[9] Positive costs were anticipated for years following fiscal year 1982.[10]

The overseas duty extension pay provision of 37 U.S.C. §314 became effective, with respect to periods of extended overseas duty beginning before, on, or after the date of enactment of the Military Pay and Allowances Benefits Act, Pub. L. No. 96-579, *id*.,[11] on January 1, 1981. [See Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., §5(c)(1), 94 Stat. 3367. See 37 U.S.C. §314 note.] The "rest and recuperative absence" provisions of 10 U.S.C. §705 became effective on the date of enactment but applied only to periods of extended duty beginning on or after such date.[12] [See Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., §5(c)(2). See also10 U.S.C. §705 note.]

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §641(a), 99 Stat. 583, 652 (1985), increased the maximum rate of special pay for enlisted personnel agreeing to extend tours of duty overseas from $50 per month to $80 per month. As explained by the House Committee on Armed Services:

> Qualified enlisted personnel currently are permitted to select either $50 per month special pay during the period of extension, 30 days of nonchargeable leave, or 15 days of nonchargeable leave plus round trip transportation at government expense to and from the continental United States.
>
> The Committee recommends increasing the monthly cash incentive for qualified enlisted personnel to extend their overseas tour from $50 per month to $80 per month as part of its emphasis on initiatives to reduce the number of PCS moves.[13]

The committee went on to note its "belief that this extension program could and should be offered to more personnel serving overseas."[14]

The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1770 (1997), added an annual bonus, not to exceed $2,000, as an alternative to the existing monthly special pay

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contemplation of the Senate, a "need for positive incentives to reduce the large number of dependents overseas." S. Rep. No. 96-1051 (Committee on Armed Services), at 6, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[9] S. Rep. No. 96-1051 (Committee on Armed Services), at 30–31, accompanying H.R. 7626, 96th Cong., 2d sess. (1980). Also see H.R. Rep. No. 96-1230 (Committee on Armed Services), at 42–43, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[10] S. Rep. No. 96-1051 (Committee on Armed Services), at 30–31, accompanying H.R. 7626, 96th Cong., 2d sess. (1980). Also see H.R. Rep. No. 96-1230 (Committee on Armed Services), at 42–43, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).

[11] The date of enactment was December 23, 1980.

[12] See footnote 11, above.

[13] H.R. Rep. No. 99-81 (Committee on Armed Services), at 233, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[14] H.R. Rep. No. 99-81 (Committee on Armed Services), at 233, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

of $80. The choice between the two forms of payment is at the discretion of the relevant Secretary. By agreement with the member, the bonus may be paid in a lump sum or in installments.

The National Defense Authorization Act for Fiscal Year 2008[15] consolidated more than 65 special and incentive pays and bonuses into eight general bonus authorities. The consolidation of legislative authorities is intended to simplify and reduce the costs of administering the special and incentive pays system while providing the services with greater flexibility to adjust compensation as required by circumstances. Under the consolidated pay authorities the overseas duty extension pay transitions to 37 U.S.C. §352, Assignment Pay or Special Duty Pay. As of January 27, 2018, the authority to pay a transfer bonus under section 327, Title 37, U.S. Code expires.

In compliance with the transition to the congressionally mandated Consolidation of Special Pay, Incentive Pay, and Bonus Authorities process, the Under Secretary of Defense for Personnel and Readiness, advised the Congressional Defense Committees, in writing on July 10, 2017, that the Department of Defense discontinued using section 314, and transitioned to the pay authority in 37 U.S.C. §352(a). Department of Defense Instruction 1340.26, "Assignment and Special Duty Pays, September 25, 2017," is germane.

Current rates of pay authorized: Qualified enlisted members who have agreed to extend their duty tours at designated locations overseas are entitled to special pay at a rate not to exceed $80 per month for each month of their extensions, or an annual bonus not to exceed $2,000.

Cost: For the cost of overseas duty extension pay from 1981 to 2016, see table II-36, below.

Table II-36. Overseas Duty Extension Pay, 1981–2016

Fiscal Year	Number of Personnel	Cost ($000)
1981	3,470	1,707
1982	4,166	2,499
1983	4,653	2,792
1984	3,919	2,351
1985	4,176	2,506
1986	3,045	2,550
1987	5,314	4,598
1988	6,674	6,407
1989	8,024	7,717
1990	8,770	8,419
1991	8,738	8,389
1992	6,665	6,399
1993	4,430	4,445
1994	3,259	3,129
1995	2,892	2,777
1996	2,764	2,681
1997	2,574	2,471
1998	2,641	2,935
1999	3,147	4,508
2000	3,323	4,738
2001	4,816	6,171

[15] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 661, 122 Stat. 3, 163 (2008).

Fiscal Year	Number of Personnel	Cost ($000)
2002	5,848	6,993
2003	9,249	14,187
2004	6,051	9,210
2005	3,366	6,544
2006	1,673	3,367
2007	2,843	5,701
2008	2,171	4,321
2009	1,863	3,713
2010	1,532	3,064
2011	1,451	2,901
2012	2,335	4,758
2013	1,843	3,686
2014	615	1,229
2015	754	1,508
2016[1]	807	1,614

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*, and Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book;* Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter II.E.2.k.
Foreign Language Proficiency Pay (1987–2013) and Military Foreign Language Skill Proficiency Bonuses (2013–Present)

Legislative Authority: 37 U.S.C. §316 (1987–2013) and §353(b) (2013–Present). Also see 37 U.S.C. §316a (2009–2013) and §353(b) (2009–Present).

Purpose: To provide a special incentive for members of the armed forces to become proficient, or to increase their proficiency, in foreign languages in order to enhance the foreign-language capabilities of the armed forces generally.

Background: The Department of Defense Authorization Act, 1987, Pub. L. No. 99-661, §634(a), 100 Stat. 3816, 3884–3885 (1986), established a new special pay for a member of the armed forces "who has been certified by the Secretary concerned within the past 12 months to be proficient in a foreign language identified by the Secretary of Defense as being a language in which it is necessary to have personnel proficient because of national defense considerations."[1] The new special pay is payable, in amounts not to exceed $100 per month, as determined by "the Secretary concerned," to a member of an armed force who either (i) "is qualified in a military specialty requiring ... proficiency" in one of the identified foreign languages, or (ii) "received training ... designed to develop such proficiency," or (iii) "is assigned to military duties requiring such a proficiency," or (iv) "is proficient in a foreign language for which the Department of Defense may have a critical need...." [See 37 U.S.C. §316(a)(3)(A)–(D).] Foreign language proficiency pay may be paid to a qualified member in addition to any other pay or allowance to which the member may be entitled.

Entitlement to foreign language proficiency pay was specifically extended to members of reserve components engaged in inactive-duty training in the Department of Defense Authorization Act, 1987, Pub. L. No. 99-661, §634(a), 100 Stat. 3816, 3884–3885 (1986). [See 37 U.S.C. §316(c).] Under 37 U.S.C. §316(c), members of reserve components of the armed forces engaged in such training are entitled to one-thirtieth of the rate of foreign language proficiency pay authorized by "the Secretary concerned" for active-duty personnel for "each regular period of instruction, or appropriate duty" in which the member engages, as well as for "each period of performance of ... other equivalent training, instruction, duty, or appropriate duties."

As explained by the Senate Committee on Armed Services:

> 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 the 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....[2]

[1] The new pay, denominated "Foreign Language Proficiency Pay" in the Department of Defense Authorization Act, 1987, Pub. L. No. 99-661, §634(a), 100 Stat. 3816, 3884–3885 (1986), is payable only to members of the armed forces, not to members of other branches of the uniformed services.

[2] S. Rep. No. 99-331 (Committee on Armed Services), at 233, accompanying S. 638, 99th Cong., 2d sess. (1986). See H.R. Rep. No. 99-1001 (Committee of Conference), at 482, accompanying S. 2638, 99th Cong., 2d sess. (1986).

As noted in the Conference Report on the Department of Defense Authorization Act, 1987, Pub. L. No. 99-661, *id.*:

> The conferees intend that this [foreign language proficiency pay] program be designed to—
>
> (1) pay a stipend to those members who develop a proficiency in critical foreign language communication skills that test at or above a utility level established by the Department of Defense; and
>
> (2) encourage the development of critical foreign language skills by judiciously limiting the specialty pay to members who obtain reading, speaking, and listening skills as a second language.[3]

In a partial exception to the "certification" requirement of 37 U.S.C. §316, i.e., the requirement that, to be eligible for foreign language proficiency pay, an affected member have "been certified by the Secretary concerned within the past 12 months to be proficient in a language identified ... as being a language in which it is necessary to have personnel proficient because of national defense considerations,"[4] the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §636(a), 105 Stat. 1290, 1382 (1991), provided that a member otherwise entitled to foreign language proficiency pay except for being unable to meet the annual certification requirement because the member was "assigned to duty in connection with a contingency operation" could nevertheless continue to draw the incentive special pay during the period he was so assigned and would have an additional 180 days after being released from the "duty in connection with a contingency operation" to complete the required certification.[5] This provision was codified to Section 316a of Title 37, United States Code, 37 U.S.C. §316a. A similar exception had been made for members participating in Operation Desert Storm/Desert Shield by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §306, 105 Stat. 75, 82 (1991),[6] and the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, *id.*, was intended to make that ad hoc exemption permanent.[7]

The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 654 (1999), increased the maximum amount of monthly foreign language proficiency pay from $100 to $300.

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[3] H.R. Rep. No. 99-1001 (Committee of Conference), at 482, accompanying S. 2638, 99th Cong., 2d sess. (1986).

[4] See text accompanying footnote 1 to this chapter, above.

[5] The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §631, 105 Stat. 1290, 1380 (1991), as itself subsequently amended, further amended Titles 10 and 37, United States Code, by providing a definition of the term "contingency operation", as follows:

> The term "contingency operation" means a military operation that—
>
> (A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
>
> (B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12306 of this title [Title 10, United States Code], chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

The subject provision is presently codified at 10 U.S.C. §101(a)(13), whereas the definition of "contingency operation" codified to Title 37, United States Code, merely provides that for the purposes of the latter title "[t]he term 'contingency operation' has the meaning given that term in section 101 of title 10" 37 U.S.C. §101(26).

[6] See H.R. Rep. No. 102-16, Part 1 (Committee on Armed Services), at 11, accompanying H.R. 1175, 102d Cong., 1st sess. (1991).

[7] S. Rep. No. 102-113 (Committee on Armed Services), at 219, accompanying S. 1507, and H.R. Rep. No. 102-311 (Committee of Conference), at 552, accompanying H.R. 2100, 102d Cong., 1st sess. (1991).

In 2003 the House Armed Services Committee brought the value of this special pay into contemporary perspective with the following statement:

> The committee urges the Secretaries of the military departments to fully utilize the flexibility provided in the critical skills retention bonus to address the need to retain qualified foreign language speakers. The war on terrorism has highlighted the need to attract and retain foreign language speakers, including, but not limited to, critical languages such as Arabic, Korean, Mandarin Chinese, Persian-Farsi, and Russian.[8]

The National Defense Authorization Act for Fiscal Year 2008 creates a new Section 353 of Title 37 of the U.S. Code which enables the Department of Defense to pay a maximum monthly Skill Incentive Pay of $1,000 to active or reserve service members. The criteria for this pay are: entitlement to basic pay or compensation, and serving "in a career field or skill designated as critical by the Secretary concerned." This law also authorizes a Skill Proficiency Bonus for members of a regular or reserve component of the uniformed services not to exceed $12,000 for a 12-month period of certification. The criteria for this bonus are: entitlement to basic pay or compensation, and maintaining certified proficiency "in a skill designated as critical by the Secretary concerned." [9] The authority to pay these two stipends, initially authorized through December 31, 2009, was extended in one-year increments through December 31, 2016.[10]

The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 expands the eligibility pool for the Skill Proficiency Bonus to include service members "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." [11]

The NDAA for Fiscal Year 2009 also expands the eligibility pool for incentive pay to persons 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." For both stipends, payment may also be made to students enrolled in the Senior Reserve Officers' Training Corps even if enrolled in the first year of the four-year course. For purposes of both stipends, critical foreign languages include Arabic, Korean, Japanese, Chinese, Pushto, Persian-Farsi, Serbian-Croatian, Russian, Portuguese, or other language designated as critical by the Secretary concerned. [12]

The NDAA for Fiscal Year 2009 creates a new section 316a of Title 37 of the US Code (chapter 5) providing incentive pay for members of pre-commissioning programs pursuing foreign language proficiency. Specifically, the Defense Secretary may pay members of the Senior ROTC or the Marine Corps Platoon Leaders Class who participate in "a language immersion program, 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" an incentive pay not to exceed $3000 per year.[13] The authority for this pay, initially set to

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[8] H.R. Rep. No. 107-436 (Committee on Armed Services), at 317, accompanying H.R. 4546, 107th Cong., 2d sess. (2002).

[9] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Div.A, Title VI, Sec. 661 (a)(2), 122 Stat.3,175. (2008).

[10] National Defense Authorization Act for Fiscal Year 2016, Pub.L.No. 114-92, Div.A, Title VI, Section 614 (9), 129 Stat 726, 839 (2015).

[11] Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No 110-417, Div.A, Title VI, Sec. 619 (a), 122 Stat.4356,4487 (2008).

[12] Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub.L.No. 110-417, Div.A, Title VI, Sec.619 (a), 122 Stat.4356, 4487 (2008).

[13] Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub.L.No. 110-417, Div.A, Title VI, Sec.619 (b), 122 Stat.4356, 4488 (2008).

terminate in December 2013, has been extended in one-year increments through December 31, 2016.[14] The requirement that annual reports be filed on the application and effectiveness of this program was repealed by the National Defense Authorization Act for Fiscal Year 2016.[15]

The NDAA for Fiscal Year 2009 also directs the Secretary to conduct a pilot program through 2013 to provide a skill proficiency bonus to a reserve member in an active status while the member participates in an education or training program to acquire proficiency in a critical foreign language or expertise in foreign cultural studies. The Secretary was required to submit a report to Congress by March 31, 2012 providing program results.[16]

In compliance with the transition to the congressionally-mandated Consolidation of Special Pay, Incentive Pay, and Bonus Authorities process, the Under Secretary of Defense for Personnel and Readiness, advised the Congressional Defense Committees, in writing on August 6, 2013, that the Department of Defense discontinued using sections 316 and 316a and transitioned both of these former pay authorities to title 37, U.S.C., section 353(b). Department of Defense Instruction 1340.27, "Military Foreign Language Skill Proficiency Bonuses, May 21, 2013," is germane.

Cost: For the cost of foreign language proficiency pay from 1987 to 2016, see table II-37, below.

Table II-37. Foreign Language Proficiency Pay, 1987–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1987	4,579	4,271	1,272	1,127	3,307	3,144
1988	8,443	6,277	1,915	1,777	6,528	4,500
1989	9,366	8,751	2,031	1,955	7,335	6,796
1990	7,741	8,014	1,981	2,023	5,760	5,991
1991	12,027	12,517	2,922	2,829	9,105	9,688
1992	10,216	9,655	2,191	2,114	8,025	7,541
1993	10,506	9,805	2,494	2,424	8,012	7,381
1994	11,731	10,707	3,326	2,811	8,405	7,896
1995	13,636	10,792	3,537	3,032	10,099	7,760
1996	11,547	10,733	3,536	3,081	8,011	7,652
1997	12,801	11,945	3,957	3,562	8,844	8,383
1998	15,419	12,935	4,397	3,961	11,022	8,974
1999	16,553	15,183	4,875	5,885	11,678	9,298
2000	27,641	21,284	8,336	5,282	19,305	16,002
2001	44,327	41,184	8,057	9,219	36,270	31,965
2002	44,950	43,081	8,642	10,197	36,308	32,884
2003	35,440	35,376	8,998	10,275	26,442	25,101
2004	33,402	32,530	8,786	8,276	24,616	24,254
2005	30,953	18,512	9,241	8,852	21,712	9,660

[14] National Defense Authorization Act for Fiscal Year 2016, Pub.L.No. 114-92, Div.A, Title VI, Sec. 615, 129 Stat. 726, 839 (2015).
[15] National Defense Authorization Act for Fiscal Year 2016, Pub.L.No. 114-92, Sec. 1072 (a), 129 Stat. 726, 994 (2015).
[16] Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No 110-417, Div.A, Title VI, Sec.619(c),122 Stat.4356,4489.

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2006	13,626	39,555	3,966	9,184	9,660	30,371
2007	18,136	69,300	4,593	17,338	13,543	51,962
2008	21,733	78,354	4,830	18,346	16,903	60,008
2009	21,685	82,245	5,463	20,413	16,222	61,832
2010	15,739	62,737	5,509	21,972	10,230	40,765
2011	35,423	99,078	9,245	25,515	26,178	73,563
2012	40,056	100,427	10,111	26,424	29,945	74,003
2013	46,351	104,913	12,348	29,008	34,003	75,905
2014	40,696	90,782	9,347	21,358	31,349	69,424
2015	43,356	98,714	10,587	24,083	32,769	74,631
2016[1]	43,216	98,221	10,989	25,224	32,227	72,997

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter II.E.2.l.
Reserve Officers Pay for Administrative Duty

Legislative Authority: Formerly, 37 U.S.C. §309. The legislative authority for this special pay was repealed by the Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, §404(a)(1), 93 Stat. 803, 808 (1979).

Purpose: To authorize commanding officers of reserve organizations to receive pay for the performance of certain administrative functions required of them in connection with reserve service.

Background: The Act of June 4, 1920 (National Defense Act Amendments of 1920), ch. 227, Pub. L. No. 66-242, §47, 41 Stat. 759, 783 (1920), provided the first legislative authority for administrative-function pay for commanders of National Guard units. This authority, which amended Section 109 of the Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, §109, 39 Stat. 166, 209 (1916), provided, among other things, as follows:

> ... Captains commanding organizations shall receive $240 a year in addition to the drill pay herein prescribed. Officers above the grade of captain shall receive not more than $500 a year, and officers below the grade of major, not belonging to organizations, shall receive not more than four-thirtieths of the monthly base pay of their grades for satisfactory performance of their appropriate duties under such regulations as the Secretary of War may prescribe.

This authority was extended to other officers by the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §14, 42 Stat. 625, 631 (1922):

> ... Hereafter, in addition to pay authorized in section 109, Act of June 3, 1916 [National Defense Act of 1916], as amended by the Act of June 4, 1920, field officers and lieutenants of the National Guard commanding organizations less than a brigade, and having administrative functions, shall receive $240 per year for the faithful performance of the administrative duties connected therewith; and warrant officers of the National Guard shall receive not more than four-thirtieths of the monthly base pay of their grade for satisfactory performance of their appropriate duties, under such regulations as the Secretary of War may prescribe.

The Act of June 3, 1924, ch. 244, Pub. L. No. 68-186, §3, 43 Stat. 363, 364 (1924), again amended Section 109 of the Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, §109, 39 Stat. 166, 209 (1916), with respect to additional pay for administrative functions:

> ... In addition to pay hereinbefore provided, officers commanding organizations less than a brigade and having administrative functions connected therewith, shall, whether or not such officers belong to such organizations, receive not more than $240 a year for the faithful performance of such administrative functions under such regulations as the Secretary of War may prescribe; and for the purpose of determining how much shall be paid to such officers so performing such functions, the Secretary of War may, from time to time, divide them into classes and fix the amount payable to the officers in each class. Pay under the provisions of this section shall not accrue to any officer during a period when he shall be entitled under any provisions of law to the full rate of his base pay prescribed in section 3 or section 9, as the case may be, of the Pay Readjustment Act of June 10, 1922 [Act of June 10, 1922, ch. 212, Pub. L. No. 67-235, §§3 and 9, 42 Stat. 625, 627, 629–30 (1922)].

The Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §14, 56 Stat. 359, 367 (1942), further amended the administrative-duty provisions of the law:

> ... In addition to pay herein provided, officers of the National Guard commanding organizations less than a brigade and having administrative functions connected therewith shall, whether or not such officers belong to such organizations, receive not more than $240 a year for the faithful performance of such administrative functions under such regulations as the Secretary of War may prescribe: Provided, That the provisions of this paragraph shall not apply when such persons are on active duty in the Federal service.

In the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §501(c), 63 Stat. 802, 826 (1949), Congress, while adopting what was in many ways a new active-duty pay system, again amended the administrative-duty provisions, mainly in order to make them compatible with the new "career compensation" system:

> In addition to pay provided in subsection (a) of this section [relating to inactive-duty training pay], officers of the National Guard, Air National Guard, National Guard of the United States, the Air National Guard of the United States, Organized Reserve Corps, Naval Reserve, Marine Corps Reserve, Coast Guard Reserve, and the Reserve Corps of the Public Health Service, commanding organizations having administrative functions connected therewith shall, whether or not such officers belong to such organizations, be entitled to receive not more than $240 a year for the faithful performance of such administrative functions under such regulations as the Secretary concerned may prescribe; and for the purpose of determining how much shall be paid to such officers so performing such functions, the Secretary concerned may, from time to time, divide them into classes and fix the amount payable to the officers in each class.

In the Act of September 7, 1962, Pub. L. No. 87-649, §309, 76 Stat. 451, 468–69 (1962), which enacted Title 37, United States Code, into positive law, Congress again amended the administrative-duty provisions of the law, this time to provide:

> (a) Under regulations prescribed by the Secretary concerned, an officer of the National Guard or of a Reserve Component of a uniformed service who commands an organization, and has administrative functions connected with it, is entitled to not more than $240 a year for the faithful performance of those functions, in addition to pay to which he is entitled under section 206 of this title [relating to compensation for inactive-duty training].
>
> (b) For the purpose of determining the amounts to be paid to officers performing the functions described in subsection (a) of this section, the Secretary concerned may, from time to time, divide those officers into classes and fix the amount payable to officers in each class.
>
> (c) This section does not apply to an officer who is entitled to basic pay under section 204 of this title [relating to members of the uniformed services on active duty or participating in full-time training, training duty with pay, or other full-time duty].

The authority providing for administrative duty pay was repealed, at the urging of the Department of Defense, in the Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, §404(a)(1), 93 Stat. 803, 808–9 (1979). In recommending repeal, the Department of Defense noted:

> The purpose of this legislation is to repeal an antiquated section of Title 37, United States Code. Additional pay for performance of administrative duty historically has been authorized for an officer of the National Guard or of a reserve component of a uniformed service who commands an organization and has administrative functions connected with the position of command. The additional pay provided in 37 U.S.C. §309 was first authorized in 1920. Over the years the administrative burden on officers commanding National Guard and reserve units has been reduced in several ways. First, administrative support is provided by a cadre of permanent active duty personnel. Second, civilian

> technicians now perform administrative functions. Finally, in some circumstances extra paid training periods are authorized. Consequently, it is the opinion of the Department of Defense that the additional pay authorized by 37 U.S.C. §309 no longer can be justified.[1]

In accepting the Department of Defense recommendations, Congress noted:

> The committee bill includes a provision ... proposed by the Department of Defense which would repeal the authority for additional pay for Reserve and National Guard commanders for the performance of administrative duty. In 1916, the payment of administrative duty for administrative chores performed outside of the regular drill time began. The amounts vary from $10 to $20 per month, depending on the size of the unit commanded. For units with under 50 personnel, commanders receive $10 per month, for units with 50-99 personnel, they receive $15, and for units with over 100 personnel, they receive $20.
>
> Since 1916 conditions have changed so that reserve units have more paid drills and therefore commanders can spend more paid drill time for administrative duty. The full-time reserve technician program has been established and increased, thus removing much administrative burden from unit commanders. Active-duty assistance to the reserve components has been substantially increased. Given these changing conditions the committee saw fit to approve the administration proposal to repeal the authority for administrative duty pay. The committee provision is expected to save about $2 million annually.[2]

Current rates of pay authorized: None. The authority for reserve officers pay for administrative duty was repealed in 1979 by the Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, §404(a)(1), 93 Stat. 803, 808–9 (1979). No provision was made for continued receipt of the special pay by persons receiving such pay at the time of repeal.

Cost: For the cost of reserve officers' pay for administrative duty for the various reserve components from 1972 to 1980, see tables II-38A–G, below.

Table II-38A. Reserve Officers Administrative Duty Pay for Army National Guard, 1972–1980

Fiscal Year	Number of Officers	Cost ($000)
1972	4,825	$1,158
1973	5,201	1,248
1974	5,316	1,276
1975	4,404	1,057
1976	4,404	1,057
1977	---	1,158
1978	---	1,057
1979	---	1,057
1980	---	840

--- No data available.

[1] S. Rep. No. 96-197 (Committee on Armed Services), at 108, accompanying S. 428, 96th Cong., 2d sess. (1980).
[2] S. Rep. No. 96-197 (Committee on Armed Services), at 107, accompanying S. 428, 96th Cong., 2d sess. (1980).

Table II-38B. Reserve Officers Administrative Duty Pay for United States Army Reserve, 1972–1980

Fiscal Year	Number of Officers	Cost ($000)
1972	3,754	$596
1973	3,706	576
1974	3,730	612
1975	3,700	600
1976	3,700	600
1977	---	591
1978	---	600
1979	---	569
1980	---	593

--- No data available.

Table II-38C. Reserve Officers Administrative Duty Pay for United States Naval Reserve, 1972–1980

Fiscal Year	Number of Officers	Cost ($000)
1972	1,603	$288
1973	1,605	275
1974	1,787	287
1975	2,291	399
1976	2,223	385
1977	---	216
1978	---	220
1979	---	294
1980	---	244

--- No data available.

Table II-38D. Reserve Officers Administrative Duty Pay for United States Marine Corps Reserve, 1972–1980

Fiscal Year	Number of Officers	Cost ($000)
1972	---	$55
1973	---	52
1974	---	60
1975	---	60
1976	---	60
1977	---	60
1978	---	60
1979	---	60
1980	---	45

--- No data available.

Table II-38E. Reserve Officers Administrative Duty Pay for Air National Guard, 1972–1980

Fiscal Year	Number of Officers	Cost ($000)
1972	505	$81
1973	503	80
1974	537	86
1975	525	84
1976	530	84
1977	---	67
1978	---	70
1979	---	76
1980	---	78

--- No data available.

Table II-38F. Reserve Officers Administrative Duty Pay for United States Air Force Reserve, 1972–1980

Fiscal Year	Number of Officers	Cost ($000)
1972	388	$56
1973	289	42
1974	257	42
1975	257	42
1976	257	42
1977	---	51
1978	---	56
1979	---	55
1980	---	57

--- No data available.

Table II-38G. Reserve Officers Administrative Duty Pay Total for All Reserve Components, 1972–1980

Fiscal Year	Cost ($000)
1972	$2,234
1973	2,273
1974	2,363
1975	2,242
1976	2,228
1977	2,143
1978	2,063
1979	2,111
1980	1,857

Note: The Administrative Duty Pay program was terminated effective Fiscal Year 1981 by the Department of Defense Appropriation Act, 1980, Public Law 96-107, §404(a)(1), 93 Stat. 803, 808 (1979).

Chapter II.E.2.m.
High-Deployment Allowance

Legislative Authority: 10 U.S.C. §991, 37 U.S.C. §436.

Purpose: To ensure that members who are deployed away from permanent duty stations for more than a stipulated number of days per year receive an allowance in recompense for the burden of such deployment.

Background: The House Armed Services Committee report accompanying the National Defense Authorization Act for Fiscal Year 2000 noted that the Defense Department lacked a unified system to monitor and record where and when military personnel serve their assignments. (The distribution of assignments across the range of activities of the military branches is known as personnel tempo, PERSTEMPO.) In the 1990s, this lack has affected particularly the ability to quantify deployments made to duty stations other than those to which members are permanently assigned. The report stated:

> It is difficult for DoD to determine the actual time that either military personnel or their units are deployed. This information is important to planning and managing contingency operations. Although all services now have systems to measure PERSTEMPO, each service has different (1) definitions of what constitutes a deployment, (2) policies or guidance for the length of time units or personnel should be deployed, and (3) systems for tracking deployments.
>
> The committee believes that a common definition is essential to present a more accurate evaluation and management of the PERSTEMPO and OPTEMPO problem.[1]

To remedy this situation, in 1999 Congress mandated that the Secretaries of the respective services manage more precisely the PERSTEMPO of active-duty and reserve members. The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 654 (1999), added two sections to the United States Code addressing the deployment of members away from permanent duty stations. The first addition, 10 U.S.C. §991, established the responsibility of general and flag officers for ensuring that members under their command who are in "high deployment" status (those who have been deployed for a total of 182 or more days out of the previous 365) not remain deployed beyond the threshold number of 220 days out of the previous 365. Exceptions were to be made if such deployment were approved by a general or admiral in the member's chain of command or if the relevant Secretary waived the law for reasons of national security. The law defined "deployment" as occurring when a member "is performing service in a training exercise or operation at a location or under circumstances that make it impossible or infeasible for the member to spend off-duty time in the housing in which the member resides when on garrison duty at the member's permanent duty station." The Secretary of the relevant department was charged with recording the deployment activity of each member for the purpose of determining possible high-deployment status.

The second new section, 37 U.S.C. §435 (subsequently renumbered as §436), aimed specifically at improving retention and minimizing the deployment-related personal hardship of armed forces members. That section prescribed a per diem allowance of $100 for members deployed a total of more than 250 days out of the previous 365. The allowance was in addition to any other allowance or bonus received. The beginning date for computation of deployment days was October 1, 2000.

The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-136 (2000), clarified the conditions under which a reserve member would be considered to be deployed. Such a member would fall into the deployed category if assigned at a location other than the

[1] H.R. Rep. No. 106-162 (Committee on Armed Services), at 384, accompanying H.R. 1401, 106th Cong., 1st sess. (1999). (OPTEMPO is a corresponding measure of equipment usage in military operations.)

permanently assigned duty site and at least 100 miles from the member's permanent residence, or if assigned at a location other than the permanently assigned duty site and requiring more than three hours of travel to reach the member's permanent residence. The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1093 (2001), broadened the definition of a reserve member's place of residence to include any housing customarily occupied in off-duty time when the member is at the permanent duty station.

The National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1475 (2003), redefined the high-deployment thresholds and the configuration of the allowance. That legislation established one-year and two-year high-deployment thresholds beyond which the responsible officer may not allow a member's deployment to extend. The one-year threshold is 220 days out of the previous 365, and the two-year threshold is 400 days out of the previous 730. The Secretary of Defense has the authority to lower those amounts. The 2004 law replaced the $100 per diem allowance with a monthly allowance of $1,000, payable for any month in which a member is beyond the high-deployment threshold by at least one day. The thresholds for this payment are not identical to the limits prescribed for managing deployment. To receive the high-deployment monthly allowance, a member must have been deployed for more than 190 consecutive days within the previous 365 days, or for a total of more than 400 days within the previous 730 days. As in the case of the deployment management guidelines, the Secretary of Defense can reduce the threshold numbers at his discretion. In both cases, the law permits the Secretary to lower but not to raise the threshold.

Members of reserve units qualify for the allowance if they are called to active duty for a second deployment of more than 30 days within a calendar year, or if they are called for a second active-duty deployment exceeding 30 days in support of the same contingency operation, regardless of time elapsed since the first call.

The National Defense Authorization Act for Fiscal Year 2012 requires the Secretary of Defense to prescribe a policy addressing dwell time for members of the armed forces. The provision would also require the Secretary to establish a system for tracking and recording the number of days each service member is deployed, prescribe policies and procedures for measuring operations tempo and personnel tempo, and maintain a central data collection repository.[2] This act also continues the statutory authority regarding the high-deployment allowance, but makes it permissive rather than mandatory.[3]

Current rate of pay: The current monthly allowance for members in high-deployment status is $1,000.

[2] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title V, Subtitle C, Sec. 522, 125 Stat. 1298, 1399 (2011).
[3] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title V, Subtitle C, Sec. 530, 125 Stat. 1298, 1403 (2011).

Chapter II.E.2.n.
Enlistment Referral Bonus

Legislative Authority: 10 U.S.C. §3252 and §1030.

Purpose: To provide a bonus to eligible individuals who refer to a military recruiter a person who has not previously served in an armed force and who, after such referral, enlists in the regular component of the Army, in the Army National Guard, or in the Army Reserve, or who takes an oath of enlistment that leads to appointment as a commissioned officer, or accepts appointment as a commissioned officer, in an armed force in a designated health profession.

Background: The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, §645, 119 Stat. 3136 (2006), authorized the Secretary of the Army to conduct a pilot program to pay up to $1,000 in a lump-sum bonus to members of the Army who refer to an army recruiter a person who has not previously served in an armed force and who, after such referral, enlists in the regular component of the Army, in the Army National Guard, or in the Army Reserve. The bonus would be paid to the referring service member after the referred person successfully completes basic training and individual advanced training. Immediate family members of persons referred and members serving in recruiting and retention assignments were not eligible to participate. The act stipulated that the referral bonus "is not a bounty for purposes of section 514(a) of title 10, United States Code."[1]

The National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, §624, 120 Stat. 2257 (2006) expanded the Army referral bonus program by doubling the bonus to $2,000, and by extending eligibility to members of the Army in a retired status and civilian employees of the Department of the Army, in addition to uniformed members of the three Army components. The $2,000 bonus would be distributed in two lump sums: the first $1,000 would be disbursed upon commencement of basic training by the person referred, and the second $1,000 would be paid when the person referred completed individual advanced training. The 2007 Act added Junior Reserve Officers' Training Corps instructors and administrators to the categories of members who are excluded from participation in the Army referral bonus program. The act extended the pilot program through December 31, 2007.

With the National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 3 (2008), Congress re-authorized and further expanded this bonus program by creating a referral bonus for the health professions open to members of all the military services and civilian Department of Defense employees. It also codified the Army referral bonus as 10 U.S.C. §3252 and the new health professions referral bonus as 10 U.S.C. §1030.

The referral bonus for the health professions is patterned closely after the Army enlistment referral bonus. Like the Army bonus, the referral bonus for the health professions is a $2,000 payment distributed to the referring individual in two lump sums of $1,000. The first $1,000 is paid when the referred person enters into a contract to serve as an officer in a health profession in an armed force for not less than three years. The second $1,000 is paid upon the completion by the person of the initial period of military training as a commissioned officer. Persons eligible to receive the referral bonus for the health professions are members in a regular component of the armed forces, members in a reserve component of the armed forces, members in a retired status, and civilian employees of a military department or the Department of Defense. As is the case with the Army bonus, immediate family, military personnel in recruiting roles, and Junior Reserve Officers' Training Corps instructors and administrators are ineligible for this referral bonus.

The National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, §615, 122 Stat. 4486 (2008), extended the authorities relating to the payment of the referral bonuses for Army enlistment and for the health professions through December 31, 2009. The Ike Skelton National Defense Authorization Act for Fiscal Year 2011 extended the authority to pay referral bonuses through December 31, 2011. This

[1] National Defense Authorization Act, Fiscal Year 2006, Pub. L. No. 109-163, §645, 118 Stat. 3310 (2006).

was the last time the pay authorities were extended and sunset December 31, 2011. In 2015, the National Defense Authorization Act for Fiscal Year 2016 repealed the enlistment referral bonus, 10 U.S.C. §3252.[2]

Current amount of the referral bonus: $0.

[2] Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, Title VI, Subtitle B, Sec. 616, 124 Stat. 4137, 4238 (2011); National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 618(a), 129 Stat. 726, 840 (2015).

Chapter II.E.2.o.
Incentive Bonus for Transfer Between Armed Forces

Legislative Authority: 37 U.S.C. § 327

Purpose: To facilitate the transfer of experienced service members from one branch of the armed forces to another.

Background: The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109–163, §641, 119 Stat. 3304 (2006) introduced a $2,500 incentive bonus for eligible active-duty and reserve personnel who extend their military service by transferring from one armed forces branch to another. The bonus provision was intended to encourage experienced Navy and Air Force officers and NCOs to transfer into the Army as part of the latter's "Blue to Green" Inter-Service Transfer (IST) program. Blue to Green is a joint program that supports the Department of Defense's Continuum of Service Initiative. The transfer program allows officers who complete their careers in one service to transfer to another while retaining the same level of service benefits, as well as their grade and date of rank.[1]

The benefit is available to members of both regular and reserve components of the armed forces. To receive the bonus, the transferred service member must commit to serving at least three years in the component to which he or she has transferred. The benefit may be disbursed as either a lump sum or in installments at the discretion of the recipient service Secretary. Service members who fail to serve for the period covered by the bonus agreement must refund to the United States a pro-rated amount for the unfulfilled service time.

With the passage of the National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, 120 Stat. 2083 (2006), the incentive bonus for transfer between armed forces was increased to $10,000, and the bonus program was extended through December 31, 2009. The National Defense Authorization Act for Fiscal Year 2016 extended the authority to pay this bonus through December 31, 2016.[2]

The National Defense Authorization Act for Fiscal Year 2008 consolidated more than 65 special and incentive pays and bonuses into eight general bonus authorities.[3] The consolidation of legislative authorities is intended to simplify and reduce the costs of administering the special and incentive pays system while providing the services with greater flexibility to adjust compensation as required by circumstances. Under the consolidated pay authorities the transfer bonus transitions to 37 U.S.C. § 331, General Bonus Authority for Enlisted Members, and 37 U.S.C. § 332, General Bonus Authority for Officers, of Title 37 of the U.S. Code. These authorities also authorizes the Military Departments to pay a bonus to service members who transfer from a regular component of an armed force to a reserve component of the same armed force or from a reserve component of an armed force to a regular component. As of January 27, 2018, the authority to pay a transfer bonus under section 327, Title 37, U.S. Code expires.

In compliance with the transition to the Congressionally mandated Consolidation of Special Pay, Incentive Pay, and Bonus Authorities process, the Under Secretary of Defense for Personnel and Readiness, advised the Congressional Defense Committees, in writing that the Department of Defense discontinued

[1] "Operation Blue to Green," http://www.goarmy.com/btg/.
[2] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle B, Sec. 615, 129 Stat. 726, 839 (2015).
[3] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle B, Sec. 661, 122 Stat. 3, 163 (2008).

using section 327, and transitioned to the pay authorities in 37 U.S.C. §331 and 37 U.S.C. §332. Department of Defense Instruction (DoDI) 1304.31, "Enlisted Bonus Program, March 12, 2013," and DoDI 1304.34, "General Bonus Authority for Officers, July 11, 2016," are germane.

Current amount of bonus: $10,000.

Chapter III.A.1.
Overview of Retired and Retainer Pay, Separation Payments, and Post-Service Benefits

Broadly speaking, the individual sections that comprise this Chapter III of *Military Compensation Background Papers: Compensation Elements and Related Manpower Cost Items—Their Purposes and Legislative Backgrounds* deal with the various items of pay and benefits that accrue to members of the armed forces when they retire or are otherwise separated from their respective services. There are a number of pays and benefits that apply specifically to persons who are separated from their services before they become eligible for retirement benefits, and these pays and benefits are set out in Chapter III.C., "Separation Pays and Post-Service Benefits," below. A broader and more comprehensive set of pays and benefits accrues to members who retire from service, whether because of disability or otherwise. Retired and retainer pays are covered in Chapter III.B, "Retirement and Retainer Pays," and benefits available to retired members and their dependents are set out Chapter III.D, "Benefits Specially Applicable to Retired Personnel and Their Dependents."

The purposes that underlie and inform the various pays and benefits covered in this Chapter III include:

- The provision of a socially acceptable level of payments to members and former members of the armed forces during their old age.
- The provision of a retirement system that will enable the armed forces to remain generally competitive with private-sector employers and the federal Civil Service.
- The provision of a pool of experienced military manpower that can be called upon in time of war or national emergency to augment the active-duty forces of the United States, and the establishment of a mechanism whereby persons in this pool can move into and out of the active-duty force smoothly.[1]
- The provision of a socially acceptable means of keeping the military forces of the United States young and vigorous, thereby ensuring promotion opportunities for younger members.

As such, the principles and concepts of military compensation that are exemplified by the system of retired and retainer pays, separation pays, and post-service benefits covered in this Chapter III are focused on the overall effectiveness of the compensation system in both peace and war; on the achievement of substantial equity for members of the armed forces, especially in the sense of establishing a compensation system that is generally competitive with compensation in the private sector; on the interrelationship between the military manpower requirements of the United States and the compensation system considered as a whole; and on the motivation of members and potential members of the armed forces.

It should be noted that, while there may be a superficial resemblance between the military retirement system and retirement systems that exist in the private sector, there are in fact substantial differences between the military retirement system and all other retirement systems, including that of federal civil servants. First, retired members of the armed forces are subject to recall to active duty; private-sector employees and civil servants suffer under no such liabilities. Second, and in that same connection, regular retired members of the armed forces are fully subject to the Uniform Code of Military Justice,[2] thus providing sanctions for the enforcement of the recall authority. Third, entitlement to military retirement benefits is an all-or-nothing proposition, turning generally on the completion of a minimum of 20 years of

[1] For the conditions under which retired members of the armed forces may be recalled to active duty, see text accompanying footnotes 48 and 49 to Chapter III.B.1. hereof, "Nondisability Retired and Retainer Pay," and text accompanying footnotes 15 and 16 to Chapter III.B.2., "Retired Pay for Non-Regular Service (Reserve Retirement)," below.

[2] The Uniform Code of Military Justice is codified as Chapter 47 of Title 10, United States Code, 10 U.S.C. §§801–946.

satisfactory federal service. The current military retirement system, in marked contrast to private-sector and Civil Service retirement systems, does not provide for the gradual vesting of retirement benefits. In the National Defense Authorization Act for Fiscal Year 2016, Congress enacted the Blended Retirement System. This new retirement system will go into effect on January 1, 2018 and will retain the requirement to serve 20 years in order to receive the defined benefit, monthly retired pay, albeit at a reduced level. It will also add a portable retirement benefit through automatic government and matching contributions to a member's Thrift Savings Plan account.

Cost: For the cost of retired and separation pays and benefits from the 1970s to 2016, see tables III-1A–D, below.

Table III-1A. Overview of Retired and Retainer Pay, Separation Payments, and Post-Service Benefits, 1972–2015

All Retired Pays
(Retired Pays for Regular and Reserve Service and Disability Retired Pay)

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	879,044	3,895,392	293,977	2,022,955	585,067	1,872,437
1972	931,776	4,382,691	304,222	2,227,434	627,554	2,155,257
1973	985,602	5,066,135	315,722	2,498,028	669,880	2,568,107
1975	1,038,446	6,129,742	326,089	2,961,037	712,357	3,168,712
1976	1,095,319	7,475,027	343,076	3,617,235	752,243	3,857,791
1977	1,148,627	8,052,724	358,313	3,832,904	790,314	4,219,820
1978	1,186,955	9,020,505	372,833	4,312,408	814,122	4,708,097
1979	1,227,566	10,085,148	390,207	4,831,827	837,359	5,253,321
1980	1,262,670	11,663,564	401,014	5,596,027	858,656	6,067,537
1981	1,289,571	13,395,569	414,446	6,431,157	875,125	6,964,412
1982	1,313,433	14,551,847	423,748	6,984,360	889,685	7,567,487
1983	1,333,360	15,485,903	431,762	7,431,551	901,598	8,054,352
1984	1,354,544	15,993,572	439,696	7,680,231	914,848	8,313,341
1985	1,373,857	16,688,110	445,325	8,006,039	928,532	8,682,071
1986	1,390,481	17,008,723	449,313	8,145,950	941,168	8,862,773
1987	1,405,919	17,432,149	453,096	8,329,293	952,823	9,102,856
1988	1,427,100	18,339,513	458,189	8,741,733	968,911	9,597,780
1989	1,450,929	19,426,302	465,009	9,235,889	985,920	10,190,413
1990	1,472,129	20,718,849	471,305	9,863,250	1,000,824	10,866,599
1991	1,496,046	22,188,637	477,145	10,555,882	1,018,901	11,632,755
1992	1,527,837	23,443,716	484,905	11,115,638	1,042,932	12,328,078
1993	1,553,605	24,590,148	489,271	11,644,485	1,064,334	12,945,663
1994	1,581,975	25,482,442	496,257	12,041,432	1,085,718	13,441,010
1995	1,603,108	26,490,499	498,734	12,477,558	1,104,374	14,012,941
1996	1,622,176	27,462,142	500,660	12,884,750	1,121,516	14,577,392
1997	1,644,124	28,624,415	502,855	13,376,501	1,141,269	15,247,914
1998	1,667,473	29,510,517	504,923	13,724,880	1,162,550	15,785,637
1999	1,687,056	30,145,588	506,485	13,958,227	1,180,571	16,187,361
2000	1,701,218	31,010,289	507,080	14,351,386	1,194,138	16,658,903
2001	1,713,409	32,191,992	506,919	14,858,809	1,206,490	17,333,183
2002	1,713,343	33,068,924	504,870	15,251,938	1,208,473	17,816,986

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2003	1,722,266	33,358,305	504,714	15,381,383	1,217,554	17,976,922
2004	1,791,554	34,711,772	508,947	15,821,514	1,282,607	18,890,258
2005	1,812,122	36,533,462	511,127	16,503,227	1,300,995	20,030,236
2006	1,832,751	38,534,836	513,979	17,309,901	1,318,772	21,224,935
2007	1,859,677	40,653,261	519,396	18,139,034	1,340,281	22,514,228
2008	1,880,871	42,385,925	521,957	18,808,752	1,358,914	23,577,173
2009	1,904,230	45,559,703	524,884	20,094,272	1,379,346	25,465,431
2010	1,917,242	46,462,523	525,494	20,393,659	1,391,748	26,068,864
2011	1,932,928	46,948,634	526,552	20,511,442	1,406,376	26,437,192
2012	1,944,049	48,802,497	527,943	21,265,280	1,416,106	27,537,217
2013	1,957,453	50,148,035	529,194	21,828,213	1,428,259	28,319,822
2014	1,970,816	51,223,621	532,471	22,306,672	1,438,345	28,916,949
2015	1,982,184	52,528,757	536,138	22,923,058	1,446,046	29,605,699

Note: Data supplied by Department of Defense, Office of the Actuary (DHRA), *Statistical Reports of the Military Retirement System*.

Table III-1B. Separation Pays

(Nondisability Separation Pay, Disability Severance Pay, Unemployment Compensation, and Voluntary Separation Incentives), 1972–2015

Fiscal Year	Total Personnel	Cost $000
1972	359,732	392,048
1973	237,960	238,064
1974	258,717	319,333
1975	311,748	448,628
1976	292,032	498,440
1977	242,281	399,973
1978	181,260	289,464
1979	187,596	315,871
1980	190,152	333,486
1981	103,477	267,937
1982	33,299	88,407
1983	120,418	224,089
1984	95,609	211,685
1985	93,342	226,920
1986	98,468	244,116
1987	89,797	254,655
1988	91,390	284,052
1989	78,115	267,754
1990	90,801	285,746
1991	111,321	378,953
1992	237,930	2,461,958
1993	168,102	1,504,522
1995	109,504	956,597

Fiscal Year	Total Personnel	Cost $000
1996	95,204	1,036,234
1997	92,788	923,513
1998	79,421	761,214
1999	77,976	767,882
2000	62,500	676,947
2001	56,169	553,763
2002	60,178	616,306
2003	60,515	794,002
2004	59,070	931,849
2005	44,311	744,793
2006	52,179	921,520
2007	86,523	1,106,509
2008	69,045	749,921
2009	85,523	548,450
2010	160,056	678,112
2011	186,191	770,890
2012	179,101	1,164,169
2013	191,348	1,112,767
2014	164,468	1,457,412
2015	116,176	1,277,430

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Table III-1C. Post-Service Benefits for Retired Members and Their Dependents (Death Gratuity and Dependency and Indemnity Compensation (DIC)), 1978–2015

Fiscal Year	Cost $000
1978	2,426,813
1979	1,554,481
1980	1,732,966
1981	1,987,278
1982	2,249,388
1983	2,433,701
1984	2,494,477
1985	2,656,712
1986	2,831.40
1987	3,023,186
1988	3,148,886
1989	3,297,871

Fiscal Year	Cost $000
1990	3,542,440
1991	3,794,372
1992	3,894,376
1993	4,215,262
1994	4,385,403
1995	4,468,034
1996	3,156,433
1997	3,241,280
1998	3,333,889
1999	3,430,841
2000	3,539,862
2001	3,670,045
2002	3,823,427
2003	3,938,490
2004	4,038,107
2005	4,098,112
2006	4,298,197
2007	4,492,616
2008	4,639,687
2009	5,152,333
2010	5,197,071
2011	5,164,514
2012	5,325,316
2013	5,654,869
2014	6,022,131
2015	6,246,653

Source: U.S. Department of Veterans Affairs, *Annual Benefits Reports*.

Table III-1D. Total Post-Service Payments and Benefits (Total of Categories Does not Include SGLI)), 1978–2015

Fiscal Year	Cost $000
1978	11,736,782
1979	11,955,500
1980	13,730,016
1981	15,650,784
1982	16,889,642
1983	18,143,693
1984	18,699,734
1985	19,571,742
1986	20,084,238

Fiscal Year	Cost $000
1987	20,709,990
1988	21,772,451
1989	22,991,927
1990	24,547,035
1991	26,361,962
1992	29,800,050
1993	30,309,932
1994	30,885,309
1995	31,915,130
1996	31,654,809
1997	32,789,208
1998	33,605,620
1999	34,344,311
2000	35,227,098
2001	36,415,800
2002	37,508,657
2003	38,090,797
2004	39,681,728
2005	41,376,367
2006	43,754,553
2007	46,252,386
2008	47,775,533
2009	51,488,970
2010	51,260,486
2011	52,337,706
2012	55,291,982
2013	56,915,671
2014	58,703,164
2015	60,052,840

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011-17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy;* Department of Defense, Office of the Actuary (DHRA), *Statistical Reports of the Military Retirement System.* U.S. Department of Veterans Affairs, *Annual Benefits Reports* U.S. Department of Veterans Affairs, *Annual Benefits Reports*.

Chapter III.B.1.
Nondisability Retired and Retainer Pay

Legislative Authority: Authority for nondisability retirement and retired and retainer pay is set out in various provisions of Title 10, United States Code.[1]

Purpose: To establish a system of nondisability retirement and authorize the payment of retired pay for service in the armed forces of the United States in order to ensure that (1) the choice of career service in the armed forces is competitive with reasonably available alternatives, (2) promotion opportunities are kept open for young and able members, (3) some measure of economic security is made available to members after retirement from career military service, and (4) a pool of experienced personnel subject to recall to active duty during time of war or national emergency exists.

Background: Except for an 1855 statute that provided for the compulsory retirement of certain Navy officers, there was no legislative authority before 1861 that provided for either the voluntary or the involuntary retirement of active-duty members of the armed forces from military service. The effect of this lack of authority was described many years later in a congressional study of Army retirement:

> The unsatisfactory personnel conditions in the Regular Army which prompted these repeated recommendations of the War Department that Congress provide some form of retirement for the Regular Army were emphasized during the extended field service required over the period 1812–1861. While the law provided a pension of one-half pay for disabled officers, there existed no provision for compulsory separation from active service of old and disabled officers; there was no limit to active service save by dismissal or resignation of the officer. Thus, an officer could remain on active duty until death, despite incapacity due to old age, physical disability, etc. In consequence, many junior officers exercised commands in the field beyond their rank, the old and disabled officers who should have exercised these commands being left behind—often on leave—whenever field service was performed.[2]

The Act of February 28, 1855, ch. 127, §1, 10 Stat. 616 (1855), while not a retirement statute as such, permitted the Secretary of the Navy to convene examining boards to determine the capability of officers for "performing promptly and efficiently all their duty both ashore and afloat" and to remove any officer determined not capable of performing such duty from the active list. Officers removed from active duty under this provision were to be placed on a "reserved list" with either leave-of-absence pay (approximately 75 percent of sea duty pay) or furlough pay (50 percent of leave-of-absence pay), unless it was also determined that the officer was to blame for the incapacity, in which case the officer was to be "dropped from the rolls" without pay. Though the main purpose of the Act of February 28, 1855, ch. 127, *id*., was to remove physically unfit officers from the active list, the following excerpt from a report of the examining board shows that it could also be used to separate officers for nondisability reasons:

> An officer may possess a strong mind and a robust frame, yet, if his moral perception of right or wrong be so blunted and debased as to render him unreliable, he could hardly be ranked as the capable officer.[3]

The Act of August 3, 1861, ch. 42, §15 (officers of the Army and Marine Corps) and §21 (officers of the Navy), 12 Stat. 287, 289, 290 (1961), authorized the voluntary retirement, at the discretion of the President, of regular officers of all branches of service after 40 years of duty. This retirement authority was broadened, first by the Act of December 21, 1861, ch. 1, §1, 12 Stat. 329 (1861), to provide for the involuntary nondisability

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[1] Retired pay for non-regular, i.e., reserve, service is dealt with in Chapter III.B.2. hereof, "Retired Pay for Non-Regular Service (Reserve Retirement)."

[2] *Promotion and Retirement: Hearings before the House Military Affairs Committee*, 69th Cong., 2d sess., Part I, 207 (1926).

[3] Appendix to the Secretary of the Navy's *Annual Report to the President* for 1855.

retirement of Navy officers with 45 years of service or at age 62, and later by the Act of July 17, 1862, ch. 200, §12, 12 Stat. 594, 596 (1862), to provide for the similar retirement of Army and Marine Corps officers. While these laws authorized the Army, Navy, and Marine Corps to require the retirement of certain classes of officers, they did not mandate that the services exercise this authority: an officer could be forced to retire after reaching the specified age or length of service, but nothing required relevant authorities to insist that an officer meeting these criteria be retired.

Army and Marine Corps officers retired for age or length of service under the Act of July 17, 1862, ch. 200, §12, 12 Stat. 594, 596 (1862), were entitled to retired pay in an amount equal to their "pay proper" plus four "rations." These rations had a commuted cash value of $36 a month. The inclusion of rations as part of the entitlement to retired pay derives from then-current active-duty pay practices. The active-duty pay scale of the time prescribed but one rate of pay, called "pay proper," for each officer grade. In addition to pay proper, however, each officer was entitled to from four to six rations, depending on grade, and to one additional "longevity" ration for each five years of service. In other words, rations were an integral part of an officer's "pay" and were used instead of "pay proper" to effect longevity pay increases. The retired-pay formula arbitrarily gave each retired officer four longevity rations, regardless of the number the officer was actually receiving as part of active-duty pay at the time of retirement.

Since active-duty Navy officers were not paid under the "pay-proper-plus-rations" system applicable to Army and Marine Corps officers, the Act of December 21, 1861, ch. 1, §1, 12 Stat. 329 (1861), which provided authority for involuntary retirement for Navy officers, stated their entitlement to retired pay in terms of a specified dollar amount for each grade, plus "four rations per day to be commuted at 30 cents each ration." The specified dollar amount being slightly more than the "pay proper" of an Army officer of corresponding grade, a Navy officer's retired pay was slightly larger than that of an Army counterpart.

The Appropriation Acts of 1871 for the Army and Navy (Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870), and Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §3, 16 Stat. 321, 330–32 (1870)) created an active-duty salary system for officers and did away with commutations for rations. Since the existing retired-pay formula had been based in part on commuted rations, it had to be changed also. Retired pay based on age or years of service was fixed as 75 percent of base and longevity pay for Army and Marine Corps[4] officers [see Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870)], and as 50 percent of sea duty pay for Navy officers [Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §5, 16 Stat. 321, 333 (1870)]. The Act of March 13, 1873, ch. 230, §1, 7 Stat. 547 (1873), raised retired pay for Navy officers to 75 percent of sea duty pay. In addition to changing the retired-pay formula, the Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §4, 16 Stat. 315, 317 (1870), authorized the voluntary retirement, again at the discretion of the President, of Army and Marine Corps[5] officers after 30 years of service.

The Act of June 30, 1882, ch. 254, 22 Stat. 117, 118 (1882), made retirement mandatory at age 64 for officers of all branches of service. The existing authority for involuntary but non-mandatory retirement of officers with 45 years of service or at age 62 was not disturbed. The Act of June 30, 1882, ch. 254, *id*., also gave officers an absolute right to voluntary retirement after 40 years of service. Earlier laws had authorized voluntary retirement at this service point, but had given the President the power to grant or deny such retirement.

The Act of March 3, 1899, ch. 413, §8, 30 Stat. 1004, 1006 (1899), introduced an unusual retirement program for Navy officers, the main purpose of which evidently was to improve promotion opportunities. It permitted officers in the grades of lieutenant commander through captain—today's pay grades O-4 through O-6—to request voluntary retirement regardless of age or length of service. Officers making such requests were placed on a list of "applicants for voluntary retirement." If a specified number of promotion vacancies did not occur through "normal" attrition—death, resignation, age or service retirement, disability retirement—during a

[4] Although the Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, 16 Stat. 315 (1870), dealt only with the Army, Marine Corps officers received the same treatment as Army officers by virtue of a special linkage provision.
[5] See footnote 4 to this chapter, above.

fiscal year, the applicants were retired in order of seniority in a number sufficient to create the desired number of vacancies. If voluntary retirements failed to achieve the specified vacancy level for any grade, the additional numbers needed to meet the requirement were obtained through involuntary retirements. This "promotion flow" retirement program remained in effect until 1915. The Act of May 13, 1908 (Naval Service Appropriation Act of 1909), ch. 166, Pub. L. No. 60-115, 35 Stat. 127, 128 (1908), authorized the voluntary retirement of Navy officers after 30 years of service.

The Act of August 29, 1916 (Naval Service Appropriation Act of 1917), ch. 417, Pub. L. No. 64-241, 39 Stat. 556, 578–79 (1916), brought two new principles to the system of nondisability retirement. First, it established a retirement program integrated with an up-or-out selective promotion plan, and second, it initiated use of the formula that was, until 1980, the basis for determining retired-pay entitlements—namely, 2.5 percent of final monthly basic pay for each year of service up to 30, or a maximum of 75 percent of basic pay.[6] The Naval Service Appropriation Act of 1917, ch. 417, *id.*, also introduced the practice of rounding years of service in the computation of retired pay, under which a partial year of six months or more was counted as a whole year, and a partial year of less than six months was not counted. The act permitted the Secretary of the Navy to convene annual selection boards to select officers for promotion to the grades of rear admiral, captain, and commander. A captain who reached age 56 without having been selected for promotion to the next higher grade became ineligible for further consideration for promotion and had to be retired; the corresponding ages for commanders and lieutenant commanders were 50 and 45, respectively. An officer so retired was entitled to retired pay of 2.5 percent of the shore duty pay[7] of the officer's grade for each year of service, not to exceed 75 percent of such pay.

The Act of June 4, 1920 (National Defense Act Amendments of 1920), ch. 227, Pub. L. No. 66-242, §24, 41 Stat. 759, 773–74 (1920), adding a new Section 24b to the Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, 39 Stat. 166 (1916), provided for the evaluation of Army officers and their separation into two classes—Classes A and B. An officer identified as "inefficient" was placed in Class B and further evaluated; all officers not so identified were deemed Class A officers. A Class B officer was retired if that officer had at least 10 years of commissioned service and the evaluation board affirmed the officer's "B" classification and found that it was not due to the officer's own "neglect, misconduct, or avoidable habits." Unless appointed at age 46 or older, a retired Class B officer was entitled to retired pay of 2.5 percent for each year of commissioned service, not to exceed 75 percent; if appointed at age 46 or older, the officer was entitled, in a rare departure from the 2.5-percent-per-year principle, to a 4-percent-per-year multiple in computing retired pay, though the 75-percent ceiling continued to apply. Class A officers were continued in service, subject to future reclassification.

The Act of June 30, 1922 (War Department Appropriation Act of 1923), ch. 253, Pub. L. No. 67-259, 42 Stat. 716, 721–22 (1922), required a reduction in the strength of the Army, and the retirement system was used to help effect the reduction. The act provided for a "plucking" board to eliminate officers from the active list. Those chosen for elimination could be retired if they had at least 10 years of commissioned service. Officers "plucked" for retirement after more than 20 years of commissioned service were entitled to retired pay of 3 percent for each year of such service, not to exceed 75 percent; those retired with between 10 and 20 years of commissioned service had the same entitlement, except that their multiple was 2.5 instead of 3 percent. The act also authorized retirement in the rank of warrant officer for eliminated officers with less than 10 years of commissioned service but at least 20 years of total service. Affected officers were entitled to 2 percent of the pay of such rank for each year of service. While the act did not place a 75-percent ceiling on this computation,

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[6] This formula is still the formula used to determine monthly retired and retainer pay for all persons who first became members of the uniformed services before September 8, 1980. See discussion of the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980), in this chapter, below. (The 2.5 percent times years-of-service formula is subject to adjustment, in the case of enlisted members of the armed forces, for "extraordinary heroism." See footnote 51 to this chapter, below.)

[7] See Chapter II.D.3.d., "Special Pay for Career Sea Duty," above, for a discussion of sea and shore duty pay for Navy personnel.

it appears doubtful that any officer retired under this provision would have had the 38 or more years of service needed to attain a retired-pay entitlement in excess of 75 percent.

The Act of June 22, 1926, ch. 649, Pub. L. No. 69-412, 44 Stat. 761 (1926), replaced the Navy's age-in-grade promotion program with one based on service-in-grade. Under this act, a captain who had completed 35 years of service without being selected for promotion became ineligible for further consideration and had to be retired; the break points for commanders and lieutenant commanders were 28 years and 21 years, respectively. The Act of May 29, 1934, ch. 367, Pub. L. No. 73-263, §1, 48 Stat. 811, 811–12 (1934), provided that the promotion and retirement systems for commissioned officers of the Navy—including those "hereafter enacted"—should thenceforth apply to commissioned officers of the Marine Corps. A second law enacted the same day altered the promotion and retirement provisions affecting Navy junior officers. The Act of May 29, 1934, ch. 368, Pub. L. No. 73-264, §4, 48 Stat. 814 (1934), amending the promotion provisions of the Act of March 3, 1931, ch. 397, Pub. L. No. 71-784, §3, 46 Stat. 1482, 1483 (1931), extended the selection program for promotion to the grades of lieutenant commander and lieutenant and provided that a lieutenant who had not been selected for promotion after 14 years of service, or a lieutenant (junior grade) who had not been selected after seven years, had to be retired. The Act of July 22, 1935, ch. 402, Pub. L. No. 74-212, §3, 49 Stat. 487, 488 (1935), amended this feature by stipulating that lieutenants or lieutenants (junior grade) who had not been selected for promotion by the 14- or seven-year points, respectively, could be retained on the active list as additional numbers in grade until they completed 21 or 14 years of service, respectively, and then retired. Retired pay under all these laws was computed at the standard rate of 2.5 percent per year of service, up to a 75-percent ceiling. The seven-year retirement provision of the Act of May 29, 1934, ch. 368, Pub. L. No. 73-263, §1, 48 Stat. 811, 811–12 (1934), is notable as representing the shortest length of service ever fixed for eligibility for nondisability retired pay.

The Act of July 31, 1935, ch. 422, Pub. L. No. 74-225, §5, 49 Stat. 505, 507 (1935), authorized the voluntary retirement of Army officers after 15 years of service, with retired pay of 2.5 percent for each year of service up to a ceiling of 75 percent. This 15-year authority was intended as a temporary measure to help relieve an officer "hump" created by a large influx of World War I officers into the Regular Army. Notwithstanding its temporary purpose, the 15-year authority, though suspended during World War II, remained in effect until 1948.

The Act of June 23, 1938, ch. 598, Pub. L. No. 75-703, 52 Stat. 944 (1938), revised the Navy's processes for officer selection and retirement to provide a "merit system for promotion" that became the model for the present promotion and retirement system. The act required that captains, commanders, and lieutenant commanders who had twice failed of selection for promotion to the next higher grade be retired after completion of 30, 28, and 26 years of commissioned service, respectively. [See Act of June 23, 1938, ch. 598, *id*., §12(d), 52 Stat. 949.] The act also authorized the voluntary retirement of Navy officers after 20 years of commissioned service. [See Act of June 23, 1938, ch. 598, *id*., §12(e), 52 Stat. 950.] The "standard" retired-pay formula —2.5 percent per year of service—was used for both voluntary and involuntary retirements under the act. [See Act of June 23, 1938, ch. 598, *id*., §12(b) and (e), 52 Stat. 949, 950.]

The Act of February 21, 1946, ch. 34, Pub. L. No. 79-305, §3, 60 Stat. 26, 27 (1946), authorized the Secretary of the Navy to convene boards to consider and recommend officers in the grades of captain or below, in the case of the Navy, or colonel or below, in the case of the Marine Corps, for involuntary retirement or elimination. It also lowered the statutory retirement age for Navy and Marine Corps officers from 64 to 62 [see Act of February 21, 1946, ch. 34, *id*., §9, 60 Stat. 28–29] and permitted voluntary retirement after 20 years of active service at least 10 years of which consisted of commissioned service [see Act of February 21, 1946, ch. 34, *id*., §6, 60 Stat. 27], with retired pay to be computed under the "standard" formula of 2.5 percent per year [see Act of February 21, 1946, ch. 34, *id*., §7, 60 Stat. 27]. The purpose of the act was to provide a means to break up the officer logjam that had arisen out of the large number of World War II accessions who could no longer be effectively employed. The act's "plucking" board authority expired June 30, 1949, but its other retirement provisions became permanent law.

The Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, Pub. L. No. 80-810, §202, 62 Stat. 1081, 1084 (1948), authorized the voluntary retirement of Army and Air Force officers after 20 years of active service at least 10 years of which consisted of commissioned service, with retired pay computed by the standard 2.5-percent formula. This law resulted, for the first time in history, in uniform authority for voluntary retirement among the officers of all branches of service.

The Officer Personnel Act of 1947, ch. 512, Pub. L. No. 80-381, 61 Stat. 795 (1947), as amended by the Officer Grade Limitation Act of 1954, ch. 180, Pub. L. No. 83-349, 68 Stat. 85 (1954), was for nearly 35 years the main authority for the officer-promotion and involuntary-retirement systems for the armed forces. Although it incorporated all the systems in one piece of legislation, the act was a product of separate service planning and policies, and its Army and Air Force program was different from that of the Navy and Marine Corps. The principal involuntary-retirement provisions of the Officer Personnel Act of 1947, ch. 512, *id*., were:

Pay Grade	Army and Air Force	Navy and Marine Corps
O-10, O-9	Retired after 5 years in grade or 35 years of service, but retirement could be deferred to age 64.	Retired after 5 years in grade and 35 years of service, unless selected for continuation.
O-8	Retired after 5 years in grade or 35 years of service, but retirement could be deferred to age 60.	Retired after 5 years in grade and 35 years of service, unless selected for continuation.
O-7	Retired after 5 years in grade or 30 years of service, but retirement could be deferred to age 60.	Rear Admiral (lower half)—retired after 5 years in grade and 35 years of service unless selected for continuation; Brigadier General USMC—retired after second failure of selection for promotion.
O-6	Retired after 5 years in grade or 30 years of service.	Retired after 30 years of service if twice failed of selection for promotion or after 31 years if not twice failed.
O-5	Retired after 28 years of service.	Retired after 26 years of service if twice failed of selection for promotion.
O-4, O-3	When twice passed over for promotion: Retired if with 20 or more years of service; retained to complete 20 years and then retired if within 2 years of 20-year point; eliminated with severance pay if less than 18 years of service.	Retired after 20 years of service if twice failed of selection for promotion; other grades eliminated with severance pay if twice failed of selection for promotion.

In the Defense Officer Personnel Management Act (DOPMA), adopted December 12, 1980, Pub. L. No. 96-513, 94 Stat. 2835 (1980), Congress, after some 30 years of experience with these involuntary-retirement and force-management provisions, and believing that the apparent differences in the treatment accorded officers in different branches of service did not in fact reflect "actual management needs," set out to provide unified retirement authority in an effort to make the career expectations of members more "clearly defined and uniform ... across the services."[8] The principal provisions of DOPMA relating to involuntary retirement or release from active duty of officers in different pay grades are set out below:

[8] H.R. Rep. No. 96-1462 (Committee on Armed Services), at 53, accompanying S. 1918, 96th Cong. 2d sess. (1980); also see *id*., at 48 and 52.

Pay Grade	Retirement Provisions
O-10, O-9	Retired at age 62 unless selected by the President for continuation on active duty, in which case retirement could be deferred, but not past age 64.
O-8	Unless specially selected for continuation, retired after five years in grade or upon completion of 35 years of active commissioned service, whichever was later.
O-7	Unless specially selected for continuation or upon a list of officers recommended for promotion, retired after five years in grade or upon completion of 30 years of active commissioned service, whichever was later.
O-6	Unless specially selected for continuation or upon a list of officers recommended for promotion, retired after 30 years of active commissioned service.
O-5	Unless specially selected for continuation or upon a list of officers recommended for promotion, retired after 28 years of active commissioned service.
O-4, O-3	If eligible for retirement, retired after having twice failed of selection for promotion to the next higher grade, unless specially selected for continuation on active duty. If not eligible for retirement, continued on active duty if within two years of becoming eligible for retirement and retired when eligible; otherwise, discharged with entitlement to separation pay if eligible therefore, unless specially selected for continuation on active duty. An officer in pay grade O-4 who was selected for continuation could not be continued on active duty beyond completion of 24 years of active commissioned service unless promoted to the next higher grade; a similar officer in pay grade O-3 could not be continued beyond completion of 20 years of active commissioned service unless promoted to the next higher grade.
O-2	If eligible for retirement, retired after having twice failed of selection for promotion to the next higher pay grade; if not eligible for retirement, continued on active duty if within two years of becoming eligible for retirement and retired when eligible, otherwise discharged with entitlement to separation pay if eligible therefore.
O-1	Could at any time be discharged if less than five years of active commissioned service or if found not qualified for promotion to the next higher pay grade.

In addition to the above, officers in pay grades O-8, O-7, and O-6 who had at least four years in grade and were not on a list recommended for promotion, together with officers in pay grade O-5 who twice failed of selection for promotion to the next higher pay grade, could be considered for selective early retirement and, if selected, were to be retired either immediately or as soon as they became eligible.[9] Officers in pay grades O-8 through O-5 who were selected for continuation on active duty could not be so continued for more than five years or beyond the time they reached age 62, whichever occurred first.[10]

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[9] In adopting this provision, Congress indicated the selective retirement authority was "to be used sparingly and ... primarily as a means of reducing the number of officers in [the affected] grades when necessary to accommodate to such actions as a reduction in officer personnel strengths. These provisions are not intended to be used solely for the purpose of maintaining or improving promotion opportunity or timing." S. Rep. No. 96-375 (Committee on Armed Services), at 7, accompanying S. 1918, 96th Cong., 1st sess. (1979). Also see H.R. Rep. No. 96-1462 (Committee on Armed Services), at 53, accompanying S. 1918, 96th Cong., 2d sess. (1980).

[10] In addition to the changes to the retirement system outlined above, the Defense Officer Personnel Management Act, Pub. L. No. 96-513, §112, 94 Stat. 2835, 2876 (1980), established, subject to waiver only by the President, a three-year

The Warrant Officer Act of 1954, ch. 249, Pub. L. No. 83-379, §14, 68 Stat. 157, 162–63 (1954), established separate retirement rules for warrant officers, including commissioned warrant officers. Under the act, a warrant officer could be retired at the officer's own request after 20 years of active service and was required to be retired at age 62 or upon completion of 30 years of active service, whichever occurred first. Retired pay for warrant officers under the act was computed at the standard rate of 2.5 percent times years of service, not to exceed 75 percent.

The National Defense Authorization Act for Fiscal Year 2013 increases from 30 to 33 years the maximum authorized length of service a Navy chief warrant officer, grade W-5, may serve prior to statutory retirement.[11] The National Defense Authorization Act for Fiscal Year 2016 authorizes a service secretary to retire warrant officers in the highest grade in which they served satisfactorily before retirement.[12]

The legislative authority for nondisability retirement for enlisted personnel is of more recent vintage than that for officers. This is in large part due to the fact that the reasons underlying the development and establishment of the earliest forms of nondisability retirement authority were to provide for involuntary retirement of superannuated officers—in order to promote efficiency, to obtain a youthful and vigorous officer force, and to improve promotion opportunities for younger officers—whereas the same objectives could be met, in the case of the enlisted force, by a judicious policy of non-acceptance of applications for reenlistment. It was only after officers obtained authority for voluntary retirement—in order to make the choice of career service in the armed forces competitive with reasonably available non-military alternatives, to provide a measure of economic security for retired armed forces personnel, and to provide a pool of experienced personnel who could be called on in time of war or national emergency to augment the active-duty forces on short notice—that the question of retirement authority for enlisted personnel came to the fore.

The Act of February 14, 1885, ch. 67, 23 Stat. 305 (1885), provided the first authority for enlisted nondisability retirement. It authorized the voluntary retirement, at the discretion of the Secretary concerned, of Army and Marine Corps enlisted personnel after 30 years of service. Retired pay for such personnel was fixed at 75 percent of the active-duty pay of an affected member, plus an allowance in lieu of quarters, fuel, and light. The 30-year retirement privilege was extended to enlisted personnel of the Navy by the Act of March 3, 1899, ch. 413, §17, 30 Stat. 1004, 1008 (1899). The Act of March 2, 1907, ch. 2515, Pub. L. No. 59-174, §1, 34 Stat. 1217, 1217–1218 (1907), consolidated the 30-year voluntary-retirement authority for the enlisted personnel of all branches of service.

The Act of August 29, 1916 (Naval Service Appropriation Act of 1917), ch. 417, Pub. L. No. 64-241, 39 Stat. 556, 587, 589–91 (1916), created the Fleet Naval Reserve to provide a pool of experienced personnel who could be recalled to active duty on short notice in time of war or emergency. While there are technical differences between the Fleet Naval Reserve, now divided into separate entities named the Fleet Reserve and the Fleet Marine Corps Reserve, and the retired list, and though the pay received by Fleet Reserve members is known as "retainer" rather than "retired" pay, transfers to the Fleet Reserve are for practical purposes the same as retirements. The Act of August 29, 1916, ch. 417, *id*., permitted enlisted personnel of the Navy and Marine Corps to voluntarily transfer to the Fleet Reserve or the Fleet Marine Corps Reserve after 16 or more years of active service. Those with between 16 and 20 years of service were entitled to retainer pay equal to one-third of their base and longevity pay. Those with 20 or more years of service were entitled to one-half their base and longevity pay.

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time-in-grade requirement for voluntary retirement; it also explicitly provided that retired members of regular components of the armed forces could be recalled to active duty at any time, DOPMA, Pub. L. No. 96-513, *id*., §106, 94 Stat. 2868, which added 10 U.S.C. §688.

[11] National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, Title V, Subtitle A, Sec. 504, 126 Stat. 1632, 1715 (2013).

[12] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title V, Subtitle A, Sec. 505, 129 Stat. 726, 808 (2015).

The Act of February 28, 1925 (Naval Reserve Act of 1925), ch. 374, Pub. L. No. 68-512, §23, 43 Stat. 1080, 1087 (1925), fixed the minimum length of active service required for transfer to the Fleet Reserve or Fleet Marine Corps Reserve at 20 years.[13] [14] The retainer-pay formula for 20-year transferees was continued as one-half of base and longevity pay. The Naval Reserve Act of 1938, ch. 690, Pub. L. No. 75-732, §203, 52 Stat. 1175, 1178 (1938), authorized a 10-percent increase in retainer pay for personnel whose conduct marks had averaged 95 percent during their terms of active service or who had been credited with extraordinary heroism in the line of duty. The Act of August 10, 1946, ch. 952, Pub. L. No. 79-720, §3, 60 Stat. 993, 994 (1946), again changed the retainer-pay formula to the standard rate of 2.5 percent times years of service, now up to a maximum of 75 percent, and eliminated the extra 10 percent for good conduct, but not for extraordinary heroism.

The Act of October 6, 1945, ch. 393, Pub. L. No. 79-190, §4, 59 Stat. 538, 539 (1945), authorized the voluntary retirement and transfer to the reserve of Army enlisted personnel with at least 20 but not more than 29 years of active service, with monthly retired pay to be computed at 2.5 percent of the last six months' average monthly pay times the number of years of service, up to a maximum of 29 years. As is readily apparent, this formula deviated from the "standard" in two ways—it used an average pay rather than terminal pay as its base, and the highest multiple it allowed was 72.5 percent instead of 75 percent (since only 29 years of service could be used in the computation). The Act of August 10, 1946, ch. 952, Pub. L. No. 79-952, §6, 60 Stat. 993, 995–96 (1946), rectified this situation by permitting retirements up to the 30-year point and by providing for the computation of retired pay under the standard formula. It also provided a 10-percent increase in retired pay for extraordinary heroism.

Before adoption of the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, 94 Stat. 1123 (1980), only regular enlisted members of the Army and Air Force could retire, after completion of 20 or more years of active service, with immediate entitlement to retired pay. While Army and Air Force Reserve enlisted members could in fact retire upon completion of 20 years of active service, they were not, under preexisting law, eligible to receive retired pay until they reached 60 years of age, in contrast to retired enlisted members of the Navy and Marine Corps Reserve components, who could retire after 20 years of active service with immediate entitlement to retired pay. To remedy this disparity in treatment, and to ensure that there were no unnecessary disincentives to enlisted service in the Army and Air Force Reserve, Congress, in the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §9(a)(1) (Army) and (b)(1) (Air Force), 94 Stat. 1123, 1128–1129 (1980), authorized 20-year retirement, with immediate entitlement to retired pay, for Army and Air Force Reserve enlisted members.[15] [16] [17]

The Department of Defense Authorization Act of 1981, Pub. L. No. 96-342, §813(a)(1) and (b)(3)(A), 94 Stat. 1077, 1100–1103 (1981), effected the first major change in the computation of entitlements to retired or retainer pay since uniform voluntary-retirement authority was adopted for officers of all branches of service in the Army and Air Force Vitalization and Retirement Equalization Act of 1948. Under the 1981 Authorization Act, the retired or retainer pay of any member of an armed force who first became a member on or after the

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[13] In a saving provision, the 16-year retirement authority for personnel on active duty on July 1, 1925, was preserved. Act of February 28, 1925 (Naval Reserve Act of 1925), ch. 374, Pub. L. No. 68-512, §24, 43 Stat. 1080, 1087 (1925).

[14] For parallel provisions affecting the Fleet Marine Corps Reserve, see Act of February 28, 1925 (Naval Reserve Act of 1925), ch. 374, Pub. L. No. 68-512, §2, 43 Stat. 1080, 1080–1081 (1925).

[15] See, e.g., S. Rep. No. 96-424 (Committee on Armed Services), at 24–26, accompanying H.R. 5168, 96th Cong., 1st sess. (1979).

[16] The 20-year retirement authority here in issue for enlisted members of the Army and Air Force Reserve is different from the 20-years-of-satisfactory-federal-service retirement authority for members performing non-regular service: the present 20-year retirement authority relates to 20 years of active-duty service by enlisted members of the Army and Air Force Reserve. See discussion of retirement authority for members of the armed forces performing non-regular service in Chapter III.B.2., "Retired Pay for Non-Regular Service," below.

[17] A regular enlisted member of the Army or Air Force who retires under this authority with less than 30 years of active service becomes a member of the Army or Air Force Reserve, with "such active-duty [requirements] as may be prescribed by law," until the total of the member's active and reserve service equals 30 years.

date of enactment of the act[18] is computed on the basis of the member's "monthly retired pay base," or "monthly retainer pay base," as applicable, instead of on the basis of the member's terminal basic pay. In practice, a member's monthly retired or retainer pay base is, in turn, an average of the member's highest three years of basic pay. As noted in the relevant congressional report:

> The committee recommends this change because of the high and increasing costs of military retired pay and because of the need to increase pay for military personnel while they serve on active duty instead of after their active-duty careers are finished. The use of the highest three years pay instead of just terminal basic pay is the same computation used for Federal Civil Service retirement and has been endorsed by the Interagency Committee, the Defense Manpower Commission, and the President's Commission on Military Compensation.[19] [20]

Persons who were members of the armed forces before the date of enactment were excluded from the new computational method for determining entitlements to retired or retainer pay in order to avoid changing the rules after they might have made career decisions on the basis of the preexisting retirement rules and out of concern that such a change could have an adverse effect on the retention of certain critical classes of personnel.

Having adopted a "high-three-year average" in an attempt to contain what was generally perceived as rapidly mounting military-retirement cost liabilities, Congress next took affirmative steps to get better and more complete information on the future retirement costs associated with the current active-duty force. In the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §925, 97 Stat. 614, 644–48 (1983), Congress established an accrual accounting system for retired pay. This system—implemented as the Department of Defense Military Retirement Fund—gives Congress and the Department of Defense direct and immediate information on the future retirement costs associated with current manpower decisions.[21] Under the accrual accounting system, an additional percentage of the annual appropriation for basic pay for members of the armed forces—amounting in 1986 to approximately 51 percent of the basic pay account for all members of the armed forces[22]—is separately appropriated for the Department of Defense Military Retirement Fund in order to defray the future costs of retirement benefits earned during the year covered by the appropriation.

In addition to establishing an accrual accounting system for military retired and retainer pay, the Department of Defense Authorization Act, 1984, made three other changes to the retirement system that were also expressly intended to contain costs. The first of the changes, adopted as Section 921 of the 1984 Authorization Act, Pub. L. No. 98-94, *id*., §921, 97 Stat. 640–41, repealed the one-year "look-back" provision of prior law. Under the one-year "look-back" rule, military retirees were permitted to base their retired or retainer pay either on the pay scale in effect on the date of their retirement or on the immediately preceding pay

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[18] The Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980), was enacted September 8, 1980.

[19] S. Rep. No. 96-826 (Committee on Armed Services), at 130, accompanying H.R. 6974, 96th Cong., 2d sess. (1980). Also see H.R. Rep. No. 96-1222 (Committee of Conference), at 98, and S. Rep. No. 96-895 (Committee of Conference), at 94, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).

[20] In accordance with Congress's declared intent "to increase pay for military personnel while they serve on active duty instead of after their active-duty careers are finished," the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §801(b)(1), 94 Stat. 1077, 1090–1091 (1980), also provided an 11.7-percent increase for the cash elements of regular military compensation—namely, basic pay, basic allowance for quarters, and basic allowance for subsistence—effective October 1, 1980, and the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §101(b)(1)–(3), 95 Stat. 989, 989–92 (1981), provided a further 14.3-percent increase to those same cash elements of military compensation, this time with an effective date of October 1, 1981.

[21] The background and reasons for adoption of the Department of Defense Military Retirement Fund, codified as Chapter 74 of Subtitle A, Part I, Title 10, United States Code, "Armed Forces," 10 U.S.C. §§1461–1467, are discussed in more detail in Appendix I.

[22] See, e.g., S. Rep. No. 99-292 (Committee on Armed Services), at 3, accompanying S. 2395, 99th Cong., 2d sess. (1986) (relating to the legislative proposal ultimately enacted as the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), but discussing the Department of Defense Military Retirement Fund).

scale as adjusted for changes in the cost of living pursuant to 10 U.S.C. §1401a, whichever was greater. The 1984 Authorization Act eliminated the latter option, basically because of budgetary concerns.[23]

The second change, adopted as Section 922 of the 1984 Authorization Act, Pub. L. No. 98-94, *id*., §922, 97 Stat. 641–42, required that monthly retired or retainer pay, both as initially computed and as subsequently adjusted pursuant to 10 U.S.C. §1401a, be rounded down to the next lower full dollar. As explained by the Senate Committee on Armed Services:

> The Committee proposal to round down monthly retired [and retainer] pay to the next lower dollar is consistent with the provisions of the Omnibus Reconciliation Acts of 1981 and 1982 which rounded down monthly Social Security benefits and civil service annuities, respectively. Although each [military] retiree would only lose from $.12 to $11.88 per year, the Department of Defense estimates that rounding down would save an estimated $9 million annually through fiscal year 1987.[24]

The third of the changes, adopted as Section 923 of the 1984 Authorization Act, Pub. L. No. 98-94, *id*., §923, 97 Stat. 642–44, terminated the so-called "six-month rounding rule" for computing retired and retainer pay. Under the "six-month rounding rule," members of the armed forces who were eligible to retire and had fractional years of service could, in computing retired or retainer pay, round their years of service to the next highest whole year for the purpose of computing retirement multipliers if they had six or more months of fractional years of service, whereas members with less than six months of fractional years of service were required to round their years of service down to the next lowest whole year. For several years prior to adoption of the 1984 Authorization Act, Pub. L. No. 98-94, *id*., however, budget constraints, as reflected in the Department of Defense Appropriation Acts for 1982 and 1983, had required members with six or more months of fractional years of service to round down to the next lowest whole month, while members with less than six months of fractional years of service lost all credit for any fractional years of service. The 1984 Authorization Act required all members to round to the next lowest whole month for the purpose of determining retirement pay multipliers.[25]

Armed with information gained from the new accrual accounting system, Congress next took action to require a $2.9 billion reduction in nondisability-retirement cost accruals for fiscal year 1986. In the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §667, 99 Stat. 583, 659–61 (1985), Congress required the Department of Defense to produce a report and draft legislation "proposing two separate sets of changes" to effect the desired reduction. According to congressional direction contained in the 1986 Authorization Act, the "proposed changes" should "apply only to individuals who initially become members of the armed forces after the effective date of such changes" and should also, "to the maximum extent possible and consistent with military requirements, encourage members who are eligible for retirement to remain on active duty beyond 20 years of service."[26] In response to this mandate, the Secretary of Defense submitted a report and draft legislation to Congress in November 1985.[27]

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[23] See, e.g., H.R. Rep. No. 98-352 (Committee of Conference), at 227, S. Rep. No. 99-213 (Committee of Conference), at 227, and S. Rep. No. 98-174 (Committee on Armed Services), at 219–20, accompanying S. 675, 98th Cong., 1st sess. (1983).

[24] S. Rep. No. 98-174 (Committee on Armed Services), at 219, accompanying S. 675, 98th Cong., 1st sess. (1983). Also see H.R. Rep. No. 98-352 (Committee of Conference), at 227, and S. Rep. No. 98-213 (Committee of Conference), at 227, accompanying S. 675, 98th Cong., 1st sess. (1983).

[25] See H.R. Rep. No. 98-107 (Committee on Armed Services), at 213, accompanying H.R. 2969, 98th Cong., 1st sess. (1983). Also see H.R. Rep. No. 98-352 (Committee of Conference), at 227, and S. Rep. No. 98-213 (Committee of Conference), at 227, accompanying S. 675, 98th Cong., 1st sess. (1983).

[26] See, e.g., H.R. Rep. No. 99-235 (Committee of Conference), at 437–38, and S. Rep. No. 99-118 (Committee of Conference), at 437–38, accompanying S. 1160, 99th Cong., 1st sess. (1985). Also see, e.g., H.R. Rep. No. 99-81 (Committee on Armed Services), at 245–50, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[27] The "report" submitted by the Secretary of Defense in response to the requirement of Section 667 of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §667, 99 Stat. 583, 659–61 (1985), is set out in full in H.R. Rep.

After reviewing the report and draft legislation submitted by the Secretary of Defense, Congress, in the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), made certain structural changes to the military retirement system. As Congress stated:

> The uniformed services retirement system has existed essentially unchanged for the last 50 years, and its basic form was established over a century ago. During the past two decades, the uniformed services retirement system has come under increasing scrutiny and attack. By recommending the [current] changes ..., the conferees are attempting to put the issue of structural reform of the uniformed services retirement system to rest for the foreseeable future. The conferees believe that, as a result of these changes, the criticism of the uniformed services retirement system will subside and the concerns of service members regarding the uncertainty of retirement benefits can be assuaged.
>
> The conferees emphasize that the changes to the uniformed services retirement system included in this conference report would apply only to those who first become members of a uniformed service on or after August 1, 1986. No member who had joined a uniformed service before that date—much less any current retiree of a uniformed service—would be affected.
>
> Most of the features of the current uniformed services retirement system are well known.
>
> (1) An immediate annuity is available to a service member who completes 20 years of service; no benefit is available to a service member who does not complete 20 years of service.
>
> (2) Retired pay equals high-3 average basic pay times a multiplier. (For those becoming members of a uniformed service for the first time before September 7, 1980, [*sic*][28] retired pay is based on final basic pay instead of high-3 average basic pay.) The multiplier equals 2 1/2 percent times years of service and ranges from percent at 20 years of service to 75 percent at 30 or more years of service.
>
> (3) Retired pay is adjusted annually by the increase in the cost of living as measured by the consumer price index (CPI).
>
> The uniformed services retirement system is non-contributory. However, the service member contributes, while on active duty, to the social security system and, thereby, earns eligibility for a social security retirement benefit. The receipt of uniformed services retired pay has no effect on social security retirement benefits and vice versa.
>
> The conferees agreed to change the uniformed services nondisability retirement system as follows:
>
> (1) The formula for the multiplier would remain unchanged—2.5 percent for each year of service up to 30 years of service. However, for members who retire with less than 30 years of service, the multiplier would be reduced by 1 percentage point [from what it otherwise would have been] for each year of service the member retired [with] less than 30 [years of service]. The reduction would be eliminated when the member reached age 62.
>
> (2) The cost-of-living adjustment mechanism would be changed to provide CPI minus 1 for life with a one time restoral in the purchasing power of the annuity at age 62.
>
> With regard to the multiplier, the formula would provide a two- tiered retirement annuity: a reduced annuity between the time the member retires from the uniformed service and the normal retirement age and an unreduced annuity thereafter.

No. 99-513 (Committee on Armed Services), at 91–126, accompanying H.R. 4420, and in S. Rep. No. 99-292 (Committee on Armed Services), at 27–62, accompanying S. 2395, 99th Cong., 2d sess. (1986).

[28] Should read "before September 8, 1980." See, e.g., 10 U.S.C. §1406.

> For example, a member who retires with twenty years of service would receive retired pay based on a multiplier of 40 percent from retirement until age 62 and retired pay based on a multiplier of 50 percent thereafter. For a member who retires with 30 years of service, no reduction in the multiplier would be made and retired pay would be based on the maximum multiplier of 75 percent.[29]

Thus, under the "Redux" system of military retirement effected by the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), new and generally lower percentage multipliers are used in determining the initial retired or retainer pay of persons who first became members of the uniformed services on or after August 1, 1986—except for members who do not retire until they reach age 62 or who retire with 30 or more years of creditable service. As indicated in the language of the House–Senate Conference Report previously quoted, the new percentage multipliers in the Redux system are determined by taking the product of a member's years of "creditable service" times 2.5 percent and reducing that factor, stated as a percentage, by one percentage point for each full year of service by which the member retires with less than 30 years of "creditable service," and reducing by a further one-twelfth of a percentage point for each month by which the member's years of "creditable service" are less than a full year.[30] Thus, for example, a member less than 62 years of age who retired with 25 years and four months of "creditable service" would have a percentage multiplier of fifty-eight and two-thirds percent—determined by multiplying 25 and four-twelfths by 2.5 percent and subtracting from that total, stated as a percentage, four and eight-twelfths percentage points. The percentage multiplier, as thus determined for a particular individual, is then applied to the member's "monthly retired or retainer pay base" to determine the member's initial retired or retainer pay.[31] When the member reaches age 62, the percentage multiplier is then adjusted back to what it would have been but for the reduction—in the case of the above example, back to sixty-three and one-third percent—to determine the member's final or permanent retired-pay entitlement.[32] As is true for persons who first became members of a uniformed service before August 1, 1986, persons who first became members on or after that date may under no circumstances have a percentage multiplier that exceeds 75 percent.

The following table shows the different percentage multipliers that would be applied under the Redux system to the "monthly retired or retainer pay base" of a member of a uniformed service who first became a member of such a service on or after August 1, 1986, in order to determine the member's initial retired or retainer pay:[33]

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[29] H.R. Rep. No. 99-659 (Committee of Conference), at 29–31, accompanying H.R. 4420, 99th Cong., 2d sess. (1986). For a discussion of the concerns that led to the above-highlighted amendments to the uniformed services retirement system, see S. Rep. No. 99-292 (Committee on Armed Services), at 2–5, accompanying S. 2395, 99th Cong., 2d sess. (1986). Also see H.R. Rep. No. 99-513 (Committee on Armed Services), at 21–27, accompanying H.R. 4420, 99th Cong., 2d sess. (1986).

[30] For the purpose of making the computation in question, the phrase "creditable service" refers to the number of years of service creditable to a member in computing the member's retired or retainer pay.

[31] As is true for members of the uniformed services who first became members before August 1, 1986, the initial entitlement to retired or retainer pay of an individual who first became a member of a uniformed service on or after August 1, 1986, is adjusted from time to time to compensate for the effects of increases in the general consumer price level, although the adjustment mechanism that applies to such a member is different from, and lower than, that applicable to an individual who first became a member of a uniformed service before the critical date. See Chapter III.B.4. hereof, below, "Adjustments to Retired and Retainer Pay."

[32] Subject, of course, to future adjustments under 10 U.S.C. §1401a for changes in the consumer price level. See Chapter III.B.4., "Adjustments to Retired and Retainer Pay," below.

[33] The multipliers in question apply only to a member of a uniformed service who first became a member of such a service on or after August 1, 1986, and who subsequently becomes, or will become, entitled to nondisability retired or retainer pay. The multipliers have no application to a member of a uniformed service who first became a member of such a service on or after August 1, 1986, and who subsequently becomes, or will become, entitled to disability retired pay. See Chapter III.B.3., "Disability Retired Pay," below. The only way in which a member of the uniformed service who first became a member of such a service on or after August 1, 1986, and who subsequently becomes, or will become, entitled either to disability retired pay or to retired pay for non-regular (Reserve) service is affected is through the process by which

		New Multiplier	
Years of Service	**Old Multiplier**	**Before Age 62**	**After Age 62**
20	50.0	40.0	50.0
21	52.5	43.5	52.5
22	55.0	47.0	55.0
23	57.5	50.5	57.5
24	60.0	54.0	60.0
25	62.5	57.5	62.5
26	65.0	61.0	65.0
27	67.5	64.5	67.5
28	70.0	68.0	70.0
29	72.5	71.5	72.5
30	75.0	75.0	75.0

The relationship between the establishment of the Department of Defense Military Retirement Fund and the proposal and adoption of the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), was explained by Congress as follows:

> In the past [prior to adoption of the accrual accounting system for military retired and retainer pay in the Department of Defense Military Retirement Fund], appropriations were paid each year to cover the military retired pay actually paid to retirees in that year.
>
> Consequently, when structural changes to the retirement system were proposed, assuming that changes would not apply to individuals already retired (whose retired pay accounted for almost the entire retired pay budget in the near term) and would apply only marginally to those on active duty or who were nearing retirement, no significant change in the cost of the system would be achieved for 10 or 20 years in the future. Any offsetting improvements, such as earlier vesting or a lump sum early withdrawal option, would, in fact, result in higher costs in the near term, thus further reducing the prospects for action on systematic reforms.
>
> Beginning in fiscal year 1985, however, a revised accounting system for military retirement was implemented; a new retirement fund was established outside of the defense budget. The Department of Defense is required to set aside in the fund a percentage of its military payroll sufficient to pay for the projected retirement benefits earned in that year based on the benefits for the group of individuals who join the military that year (but who will retire in the future).
>
> In other words, until fiscal year 1985, the Department of Defense had to pay for retirement benefits earned in the past but due in the present; now the department must pay for retirement benefits as they are earned. The new method of budgeting for military retirement is similar to the "normal cost" calculations made by private sector employers.
>
> ...
>
> A permanent change to the military retirement system carries with it a change to the accrual charge. In other words, a reduction in future benefits means that less money needs to be set aside to pay for benefits for those affected by the change. . . .

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disability retired pay and retired pay for non-regular service are adjusted to compensate for the effects of inflation due to increases in the Consumer Price Index. See Chapter III.B.4., "Adjustments to Retired and Retainer Pay," below. (Multipliers are shown only for integral numbers of years of creditable service. Further adjustments are required to determine multipliers applicable to persons who retire with partial years of creditable service.)

> In summary, under the accrual accounting system, a change to the military retirement system that decreased the value of military retired pay for new entrants would immediately decrease budget authority and outlays; such a change would also decrease federal budget authority but would have no effect on overall federal outlays (or the deficit). The only changes that would affect federal outlays in the near-term were changes in the structure of military retirement annuities for those members already retired (including changes in the cost-of-living adjustment), and, to a substantially lesser extent, changes in the structure of benefits for those on active duty who are near retirement at the time of the change.[34]

In other words, adoption of the accrual accounting system for military retired and retainer pay in the Department of Defense Military Retirement Fund made it possible for Congress to reduce apparent defense appropriations for the current year without affecting the entitlements to retired or retainer pay of any current retiree or any member of the armed forces who had first become a member before August 1, 1986—the effective date of the reform provisions contained in the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986). Given the imperatives to reduce the federal budget deficit in general and Department of Defense appropriations in particular, Congress achieved such reductions by the relatively painless expedient of changing the military retirement system in a way that would affect only persons who first became members of a uniformed service on or after August 1, 1986: the reduction in appropriations was immediate, but the effect of such reductions insofar as the nondisability retired or retainer pay of particular individuals are concerned would not be felt until the year 2006.

Despite the immediate budgetary benefit of the new system of retirement calculation, in the 1990s Congress concluded that the system had a negative effect on recruitment and retention. A Navy Reserve report summarized the situation thus:

> The perception of an inadequate retirement program consistently surfaces as a primary cause of our recruiting and retention problems. Survey results, combined with feedback gathered by leaders from all the Services, convinced Congress…. that long-term retention is not well served by the REDUX retirement plan.[35]

In response, in 1999 the Senate Armed Services Committee made the following recommendation:

> The committee recommends a provision that would afford service members who entered the uniformed services on or after August 1, 1986 the option to elect to retire under the pre-1986 military retirement plan or to accept a one-time $30,000 lump sum bonus and to remain under the "Redux" retirement plan. Service members would be permitted to select between the two retirement programs within 180 days of completing 15 years of service. Service members who elect to accept the lump sum bonus would be obligated to serve the remaining five years to become retirement eligible. Those who do not complete the required service would be required to repay a prorated amount based on the unserved amount of the obligation…. The committee believes that the provision fulfills the request of the Joint Chiefs by permitting those subject to the 'Redux' retirement system to transfer to the pre-1986 retirement plan. However, those who would prefer to receive a cash bonus may elect to remain under the 'Redux' retirement system. The committee believes these options are both cost effective and provide the necessary incentives for mid-career personnel to remain on active duty.[36]

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[34] H.R. Rep. No. 99-513 (Committee on Armed Services), at 25–27, accompanying H.R. 4420 (subsequently enacted as the Military Retirement Reform Act of 1986), 99th Cong., 2d sess. (1986)).

[35] Naval Reserve Facility, Marquette, Wisconsin, "The Importance of DIEMS Date in Determining Your Military Retirement System and Eligibility for the $30K," http://www.cnsrf.navy.mil/marquette/ 30k15yearstatusbonus.htm.

[36] S. Rep. No. 106-050 (Armed Services Committee), accompanying S. 1059, 106th Cong., 1st sess. (1999).

Accordingly, the National Defense Authorization Act for Fiscal Year 2000 provided a set of expanded retirement options for members completing 15 years of active duty. Upon reaching the 15-year service anniversary, a member can choose to have retirement calculated according to the "high-three" formula previously used only for members who entered service between 1980 and 1986. Alternatively, the member can enter the Redux retirement system designated for those entering active service after August 1, 1986. The lower multipliers of that system are counterbalanced by a Career Status Bonus of $30,000, payable to those who execute a written agreement to complete their eligibility for retirement by remaining on continuous active duty for at least five more years. Having gone into effect in 2001, the Career Status Bonus provision makes the choice of retirement systems available to all members who have entered service after August 1, 1986, when those members reach their 15-year service anniversary.

The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992), adopted early-retirement authority—for members with between 15 and 20 years of service—as a "temporary additional force management tool with which to effect the drawdown of military forces through 1995." [See National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id*., §4403(a), 106 Stat. 2702.][37] Under the subject authority, the Secretaries of the military departments are authorized to accept applications of members of the Army, the Navy, the Marine Corps, and the Air Force having at least 15 but less than 20 years of service for voluntary early retirement.[38] This early-retirement authority is applicable during the "active force drawdown period," which, as originally enacted, was defined to be the period beginning on the date of enactment of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id*., i.e., October 23, 1992, and ending on October 1, 1995.[39] The National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §561(a), 107 Stat. 1547, 1667 (1993), subsequently extended the termination date for the "active force drawdown period" to October 1, 1999. A member whose application for early retirement is accepted is entitled to retired or retainer pay effectively computed by multiplying the member's "retired or retainer pay base" by an adjusted "retired or retainer pay multiplier."[40] The adjusted "retired or retainer pay multiplier" of a member seeking early retirement is determined by multiplying 2.5 percent times the member's years and months of creditable service (counting 1/12th of a year for each month of creditable service in excess of the number of whole years of service) and then subtracting from that result, stated as a percentage, 1/12th of 1 percent for each full month by which the member's total months of active service at retirement are less than 240.[41]

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[37] See 10 U.S.C. §1293 note for the full text of the early-retirement authority adopted by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992).

[38] As initially enacted, the early retirement authority did not extend to members of the Coast Guard or to the commissioned officer corps of the National Oceanic and Atmospheric Administration or the Public Health Service. Early retirement authority was, however, subsequently extended to members of the Coast Guard with at least 15 but less than 20 years of service by the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §542(d), 108 Stat. 2663, 2769 (1994), and to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §566(c), 110 Stat. 186, 328 (1996).

[39] National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403(i), 106 Stat. 2315, 2704 (1992). See 10 U.S.C. §1293 note.

[40] National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403(e), 106 Stat. 2315, 2703 (1992). See 10 U.S.C. §1293 note.

[41] A member's normal, or unadjusted, "retired or retainer pay multiplier" is determined under 10 U.S.C. §1409 in one of two ways, depending on when the member first became a member of the armed forces. If the member first became a member before August 1, 1986, the "retired or retainer pay multiplier" is determined by multiplying the member's years and months of creditable service (with each full month of creditable service in excess of a full year counted as 1/12th of a year) by 2.5, with that result being stated as a percentage figure, whereas if the member first became a member after July 31, 1986, the "retired or retainer pay multiplier" is computed as above but one percentage point is subtracted for each full year that the member's years of creditable service are less than 30 (plus 1/12th of a percentage point for each month that the member's months of service in addition to his years of service are less than 12). See text accompanying footnotes 28–31 hereof, above. Since the "active force drawdown period," as extended by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §561(a), 107 Stat. 1547, 1667 (1993), ends on October 1, 1999, all members

In support of the early-retirement authority granted by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992),[42] the Senate Armed Services Committee, which sponsored the proposal, noted:

> The committee anticipates that the active component strength levels of some of the military services in the current DOD Base Force Plan, which total to an active-duty strength level of 1,626,300 by the end of fiscal year 1997, are likely to be reduced substantially. The committee expects such a reduction will result from the Defense Department's own revisions to its current Base Force Plan as a result of budget decisions, a more efficient allocation of roles and missions among the military services, a more efficient active/reserve force mix, and other economies and efficiencies that are discussed elsewhere in this report.[43]
>
> In order to cope with the active-duty strength reductions that are currently planned by the DOD, the Congress provided authorities to the military services to assist them in implementing the planned reductions prudently. These authorities included separation benefits that the military services could offer to career personnel to induce them to voluntarily separate from active duty.
>
> The committee notes that these authorities have been effective in helping the military services reduce strength in the six to 15-years-of-service element of the career inventory. At the same time, the committee notes that the military services do not have an effective tool to reduce active-duty strength in the 15 to 20-year element of the career inventory.
>
> In view of the committee's expectation that the active-duty strengths in the current Base Force Plan will be reduced substantially, and in view of the absence of an effective tool that the military services can use to reduce the 15 to 20-year element of the personnel inventory, the committee believes that existing transition provisions should be augmented....
>
> Therefore the committee recommends...
>
> Section 534 [of the Senate bill, S. 3114, 102d Congress, 2d Session (1992)] would authorize active-duty personnel who have 15 but less than 20 years of service to apply for and be approved for early retirement. The committee expects the military services to use this authority selectively to trim surpluses in the 15 to 20-year element of the personnel inventory.[44]

The Senate proposal was amended in conference, with the Conference Committee noting:

> The amendment would clarify that the purpose in providing this authority is to give the Department of Defense a temporary, additional force management tool to effect the reduction in military personnel through fiscal year 1995. The amendment would clarify that the Secretaries of the military departments may prescribe appropriate regulations or policies regarding the criteria for eligibility and approval of applications under this section [H.R. 5006, §4403, 102d Congress, 2d Session (1992)]. These criteria may include, but are not limited to, such factors as grade, skill, and years of service. The amendment would provide that the retired

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seeking to take advantage of the provisions for early voluntary nondisability retirement in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992) [see 10 U.S.C. §1293 note], are necessarily members who first came on active duty before August 1, 1986, and would accordingly have their "retired or retainer pay multipliers" determined as set out above. For a member retiring with exactly 15 years of creditable service, for example, the member's retired or retainer pay entitlement would then be 5 percent less than what it otherwise would have been but for the adjustment required by National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403(e), 106 Stat. 2315, 2703 (1992). See 10 U.S.C. §1293 note.

[42] See 10 U.S.C. §1293 note.

[43] S. Rep. No. 102-352 (Committee on Armed Services), accompanying S. 3114, 102d Cong., 2d sess. (1992).

[44] S. Rep. No. 102-352 (Committee on Armed Services), at 201–2, accompanying S. 3114, 102d Cong., 2d sess. (1992).

> pay of a member who retires under this section would be reduced by one percent for each year of service less than 20 years.[45]

In extending the "active force drawdown period" from October 1, 1995, to October 1, 1999, the House–Senate Conference Committee noted as follows:

> The Senate amendment contained a provision ... that would extend through fiscal year 1998 certain temporary authorities which provide tools to the military services for managing personnel reductions, and which provide a safety net of benefits for separating military personnel during the defense drawdown.
>
> ...
>
> The House ... [proposes to] extend these transition authorities through 1999. The conferees believe that by providing the Department of Defense with these authorities for the foreseeable length of the drawdown, they will encourage DOD to develop and implement coherent, integrated, long-term drawdown plans that will minimize the uncertainties and personnel turbulence associated with such a drawdown.[46]

This early retirement authority, known as the Temporary Early Retirement Authority (TERA) was reinstated by the National Defense Authorization Act for FY 2012 to run through 2018. This authority was later extended by the National Defense Authorization Act for FY 2017 through FY 2025.

The National Defense Authorization Act for Fiscal Year 2010 excluded active-duty service while pursuing a degree under the Navy's Seaman to Admiral Program from the computation of years of service as an officer for the purposes of voluntary retirement. However, such service is not excluded from the computation of years of active-duty officer service for all other purposes, such as involuntary separation or retirement because of disability.[47]

The Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 amends 10 U.S.C. 1407a regarding the computation of retired pay for general/flag officers (GO/FO). The law reinstates the cap on GO/FO retired pay at the monthly equivalent of level II of the Executive Schedule after 2014.[48] The conference agreement includes grandfathering amendments to "ensure equitable treatment of general and flag officers who are retired under 10 U.S.C. 1223, but who are transferred to the retired reserve prior to December 31, 2014." [49]

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[45] H.R. Rep. No. 102-966 (Committee of Conference), at 886, accompanying H.R. 5006, 102d Cong., 2d sess. (1992).

[46] H.R. Rep. No. 103-357 (Committee of Conference), at 678, accompanying H.R. 2401, 103d Cong., 1st sess. (1993). In support of its original proposal to extend the temporary retirement authority through 1998, the Senate Armed Services Committee had noted:

> The committee believes that these authorities [including the temporary retirement authority adopted in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992); see 10 U.S.C. §1293 note], which have been used effectively by the military services to make reductions in personnel strength on a prudent, humane basis since they were enacted, will continue to be required as further personnel strength reductions are made over the next several years.

S. Rep. No. 103-112 (Committee on Armed Services), at 145, accompanying S. 1298, 103d Cong., 1st sess. (1993).

[47] National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84, Title V, Subtitle A, Sec. 505, 123 Stat. 2190, 2277 (2009).

[48] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub.L.No. 113-291, Title VI, Subtitle C, Sec. 622, 128 Stat. 3292, 3402 (2014).

[49] U.S. House of Representatives, Committee on Armed Services, Legislative Text and Joint Explanatory Statement to Accompany H.R. 3979, Public Law 113-291, Committee Print No. 4, 785, December 2014.

The National Defense Authorization Act for Fiscal Year 2016 permits the Secretaries of the military departments to defer, until age 68, the mandatory retirement age of GO/FO serving as Chief or Deputy Chief of Chaplains of the Army, Navy, or Air Force.[50]

The National Defense Authorization Act for Fiscal Year 2016 also established the modernized retirement system for members of the Uniformed Services. Called the "Blended Retirement System," or BRS, by the Uniformed Services, this reform to nondisability retirement goes into effect on January 1, 2018. The BRS reduces the retired pay multiplier from 2.5 times the number of years served times the retired pay base to 2 times the years served times the retired pay base. For a regular retiree who serves for 20 years, this will result in retired pay multiplier of 40 percent instead of the 50 percent he or she would have received under the prior retirement system. To off-set this reduction, all Uniformed Service members who are enrolled or who choose to enroll in the BRS will receive automatic and matching contributions to a Thrift Savings Plan (TSP) account, similar to a civilian 401k retirement defined contribution plan. All new Uniformed Service members joining on or after January 1, 2018, will be automatically enrolled in the BRS and the TSP. All members who were serving prior to that date are grandfathered under the "legacy" retirement plans. Many current members have the opportunity of electing to switch to the BRS from its implementation on January 1, 2018.

* * * * *

When the seventh edition of the *Military Compensation Background Papers* was published in November 2011, three basically similar but slightly different nondisability, active-duty retirement systems were in effect for members of the uniformed services. A fourth system will be implemented on January 1, 2018, and will become the primary nondisability retirement system for all Uniformed Services members joining on or after that date. The retirement system that applies to a particular individual depends on when that individual first became a member of a uniformed service and, for members who joined after August 1, 1986, on the acceptance or rejection of the Career Status Bonus upon completion of 15 years of active service. The three current systems are similar in that entitlements of members of the uniformed services to retired or retainer pay are, under each of the three systems, determined by applying a percentage multiplier to a number that is in some way related to a member's basic pay at the time of retirement. The percentage multiplier for a particular member of a uniformed service is, in turn, determined by reference to the number of years of service with which the member may be credited in computing retired or retainer pay.

Under the first system, which applies to persons who first became members of a uniformed service before September 8, 1980, a member's initial retired or retainer pay is determined by multiplying that member's terminal basic pay by a percentage factor computed as the product of the number of years of service with which the member may be credited for computing retired or retainer pay multiplied by 2.5 percent. The second of the three systems applies to all members of the uniformed services who first became members after September 7, 1980, but before August 1, 1986, and to those who have become members after August 1, 1986, and have rejected the Career Status Bonus option upon completing their fifteenth year of active service. The second system determines the initial retired or retainer pay of a member by multiplying that member's "monthly retired or retainer pay base" by a percentage factor computed in the same fashion as applies in the case of the first retirement system. However, in this case the member's "monthly retired or retainer pay base" is equal to the member's "high-three-year" average monthly basic pay. The third of the retirement systems applies to members of the uniformed services who first became members on or after August 1, 1986, and have accepted the Career Status Bonus upon completion of their fifteenth year of active service. Under this system, the initial retired or retainer pay of a member is determined by multiplying that member's "monthly retired or retainer pay base" by a percentage factor computed as the product of the member's years of creditable service and 2.5 percent, stated as a percentage, and reduced by one percentage point for each full year of service by which the member retires with less than 30 years of creditable service, and by a further one-twelfth of a percentage point for each month by which the member's years of creditable service are less than a full year. After a member subject to this third

[50] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title V, Subtitle A, Sec. 504, 129 Stat. 726, 807 (2015).

system reaches age 62, the "percentage factor" is recomputed by simply eliminating the percentage-point reduction described in the preceding sentence.

The three different retirement systems currently in effect for members of the armed forces may be conveniently summarized as follows:

Short Form Reference	**Final Basic Pay**	**High-Three-Year Average**	**Military Retirement Reform Act of 1986 (Redux)**
Applies to:	Persons in service before September 8, 1980	Persons joining service from September 8, 1980, through July 31, 1986, and persons joining after July 31, 1986, opting not to accept 15-Year Career Status Bonus	Persons joining service after July 31, 1986, and accepting 15-Year Career Status Bonus with additional 5-year service obligation
Basis of Computation (Retired or Retainer Pay Base):	Final rate of monthly basic pay	Average monthly basic pay for highest 36 months of basic pay	Average monthly basic pay for highest 36 months of basic pay
Multiplier:	2.5 percent per year of service	2.5 percent per year of service	2.5 percent per year of service less 1.0 percentage point for each year of service less than 30 (restored at age 62)
Cost-of-Living Adjustment Mechanism:	Full CPI-W	Full CPI-W	CPI-W minus 1 percent (one- time catch up at age 62)
Additional Benefit			$30,000 Career Status Bonus payable at 15-year anniversary upon assumption of 5-year obligation to remain on continuous active duty

* * * * *

The primary concern of the retirement legislation so far discussed has been with regular and reserve forces personnel who serve on active duty with the regular components of the armed forces for a minimum of 20 years. Title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, Pub. L. No. 80-810, §§301–313, 62 Stat. 1081, 1087–1091 (1948) (which, despite the limitations implicit in the name of the act, covered the reserve components of all branches of service) created a retirement system for reserve personnel who do not undertake a 20-year active-duty career. This retirement authority was adopted in an attempt to provide incentives to induce reserve forces personnel to remain in reserve components of the armed forces for a minimum of 20 years of "satisfactory federal service."[51] The reserve retirement system remains basically unchanged from the way it was enacted in 1948.

To qualify for retired pay for non-regular service, a member must complete at least 20 years of "satisfactory federal service," the last eight years of which must be in a reserve component. Each one-year period in which the member earns 50 or more retirement credit "points" counts as a year of satisfactory federal

[51] For a discussion of "satisfactory federal service" and how it differs from active-duty service, see the immediately following paragraph as well as Chapter III.B.2., "Retired Pay for Non-Regular Service," below.

service. Points are earned at the rate of 15 a year for reserve membership, plus an additional point for each day of active duty or active duty for training and for each attendance at a drill or prescribed period of equivalent instruction.[52] Entitlement to retired pay for reserve service begins at age 60 under the act because that was, at the time of enactment, the minimum age at which federal Civil Service employees could voluntarily retire. Retired pay is computed by first converting the member's cumulative point total into service at the rate of one day for each point, subject to a maximum of 60 days' credit for inactive-duty training for any one year. The basic pay for the member's grade is then multiplied by 2.5 percent of the years of service credited through the point conversion process, up to a ceiling of 75 percent. Years of service are not rounded in this computation; the percentage multiple reflects the precise number of the member's years, months, and days of service. The Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980), previously discussed in connection with retired or retainer pay for other than non-regular service, provides that retired pay for non-regular service will, for personnel first joining an armed force after the date of enactment of that act,[53] be based on the average basic pay for the member's retired grade using the pay tables in effect for the three years prior to the member's becoming eligible for retired pay at age 60, and not on actual pay received by the member.[54]

* * * * *

Until the beginning of fiscal year 1985, military retired pay was financed on a pay-as-you-go basis. Funds were appropriated by Congress each year to cover the costs of retired pay for the current retired population and charged to the Department of Defense operating budget. No "fund" existed from which retired-pay obligations were met. It was long recognized that this procedure did not adequately recognize the future retired-pay costs associated with the current active-duty force and thus led at different times to various proposals for normal costing in management and budget processes and even to consideration of a funded retirement system. The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §925, 97 Stat. 614, 644–48 (1983), dealt with this deficiency by establishing the Department of Defense Military Retirement Fund.[55] As previously indicated, this fund, the details of which are discussed more fully in Appendix I hereto, established the underpinnings of an accrual accounting system for military retirement. Under this accrual accounting system, funds are appropriated for the Department of Defense every year by Congress and transferred to the Military Retirement Fund in an amount sufficient to defray the expected retirement costs associated with the current active-duty force. By this expedient, Congress and the Department of Defense are fully apprised of the total costs—present as well as future—of manpower decisions made for each year.

* * * * *

Members on the retired rolls of regular and reserve components of the armed forces who have completed at least 20 years of active service are explicitly subject to recall to active duty at any time in order to augment active-duty forces. [See 10 U.S.C. §688(a).] Under the Defense Officer Personnel Management Act, Pub. L. No. 96-513, §106, 94 Stat. 2835, 2868 (1980), effectively amending prior 10 U.S.C. §3504(a) and 8504(a), such members may be ordered to active duty by the Secretaries of the affected military departments under regulations prescribed by the Secretary of Defense and assigned to any duties deemed "necessary in the interests of national defense."[56] While this new provision merely "restated" the existing authority with respect to Army and Air Force personnel, it specifically included Navy and Marine Corps personnel for the first time.[57]

The Ike Skelton National Defense Authorization Act for Fiscal Year 2011 extended through 2011 the temporary authority of the Secretary to order retired members to active duty in high-demand, low-density

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[52] A member's attendance at drills, periods of instruction or appropriate duty, or participation in other prescribed periods of equivalent training is commonly referred to as "inactive-duty training." See 10 U.S.C. §101(d)(7). *Cf.* 37 U.S.C. §206(a).
[53] i.e., September 8, 1980; see footnote 16 to this chapter, above.
[54] The background and legislative history of retired pay for non-regular (reserve) service are set out in greater detail in Chapter III.B.2., "Retired Pay for Non-Regular Service," below.
[55] See footnote 19 to this chapter, above.
[56] See, e.g., S. Rep. No. 96-375 (Committee on Armed Services), at 26, and H.R. Rep. No. 96-1462 (Committee on Armed Services), at 80–81, accompanying S. 1918, 96th Cong., 2d sess. (1980).
[57] See, e.g., S. Rep. No. 96-375 (Committee on Armed Services), at 26, and H.R. Rep. No. 96-1462 (Committee on Armed Services), at 80–81, accompanying S. 1918, 96th Cong., 2d sess. (1980).

assignments or in other specialties designated as critical to meet wartime or peacetime requirements. The extension required a report from the Secretary assessing the need to extend such authority beyond such date.[58]

Under the provisions of 38 U.S.C. §§5304–5305, a member or former member of the armed forces may receive a pension or compensation from the Department of Veterans Affairs for disabilities compensable by that department at the same time the member or former member receives retired or retainer pay, including disability retired pay, based on service as a member of the armed forces only if filing a "waiver" of that portion of retired or retainer pay (including disability retired pay) equal to the amount of pension or compensation to which the member or former member is entitled from the Department of Veterans Affairs.[59]

Summary: The more significant statutes relating to nondisability retirement and retired pay are displayed in summarized form on the pages following the cost figures on the following page.[60] [61]

Cost: For the cost of nondisability retired and retainer pay from 1972 to 2015, see table III-2, below.

Table III-2. Nondisability Retired and Retainer Pay, 1972–2015

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	676,620	$3,117,514	186,827	$1,484,391	489,793	$1,633,123
1973	722,607	3,517,607	193,863	1,631,083	528,744	1,886,524
1974	770,265	4,136,015	202,037	1,870,109	568,228	2,265,906
1975	818,482	5,073,272	209,934	2,250,067	608,548	2,823,205
1976	867,305	5,967,476	222,708	2,614,914	644,597	3,352,562
1977	917,406	6,734,596	232,028	2,925,255	685,378	3,809,341
1978	946,191	7,524,637	239,239	3,263,063	706,952	4,261,574
1979	974,077	8,429,467	246,975	3,662,381	727,102	4,767,086
1980	1,000,685	9,779,691	254,163	4,255,020	746,522	5,524,671
1981	1,019,970	11,243,311	258,435	4,891,574	761,535	6,351,737
1982	1,038,084	12,233,222	263,153	5,311,187	774,931	6,922,035
1983	1,052,153	13,044,647	267,422	5,665,388	784,731	7,379,259
1984	1,067,027	13,493,562	272,211	5,876,802	794,816	7,616,760
1985	1,080,241	14,096,551	276,222	6,143,307	804,109	7,953,244

[58] Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, Title V, Subtitle D, Sec. 531, 124 Stat 4137, 4215 (2011).

[59] This is significant primarily because of the preferential income-tax treatment accorded receipt of pension or disability compensation from the Department of Veterans Affairs. See footnote 16 to Chapter III.B.3. hereof, below, "Disability Retired Pay," as well as the text of the paragraph to which it is appended.

[60] Under special provisions of Title 10, United States Code, the retired or retainer pay of an enlisted member of an armed force credited with extraordinary heroism in the line of duty by the Secretary of his or her military department may be increased an additional 10 percent over what it would otherwise have been, subject to a maximum of 75 percent of the member's retired or retainer pay base. See 10 U.S.C. §3991(a)(2) (Army), §6330(c)(3) (Navy and Marine Corps), and §8991(a)(2) (Air Force). An enlisted member of the Coast Guard who has been cited for extraordinary heroism in the line of duty is similarly entitled to an increase of 10 percent in retired pay.

[61] Although not a retirement provision per se, 38 U.S.C. §§1560–1562 provide that members or former members of the armed forces whose names are enrolled on the "Army, Navy, Air Force, and Coast Guard Medal of Honor Roll" as a result of having "served on active duty in the armed forces of the United States and ... [having] been awarded a medal of honor for distinguishing such person conspicuously by gallantry and intrepidity at the risk of such person's life above and beyond the call of duty while so serving" is entitled to a "special pension" administered by the Department of Veterans Affairs in the amount of $600 per month "in addition to all other payments [to which the person may be entitled] under laws of the United States." See in particular 38 U.S.C. §1562(a) and (b).

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1986	1,093,174	14,401,101	280,148	6,282,214	813,026	8,118,887
1987	1,106,072	14,800,690	284,708	6,462,183	821,364	8,338,507
1988	1,123,697	15,616,946	289,968	6,824,860	833,729	8,792,086
1989	1,142,884	16,591,615	296,191	7,253,875	846,693	9,337,740
1990	1,158,807	17,735,829	301,521	7,787,860	857,286	9,947,969
1991	1,176,916	18,985,014	306,744	8,326,405	870,172	10,658,609
1992	1,204,719	20,166,310	314,901	8,867,251	889,818	11,299,059
1993	1,228,435	21,224,330	320,325	9,355,213	908,110	11,869,118
1994	1,253,875	22,052,717	328,363	9,723,676	925,512	12,329,041
1995	1,271,769	22,971,454	332,381	10,123,462	939,388	12,847,992
1996	1,287,099	23,862,504	335,756	10,501,623	951,343	13,360,881
1997	1,307,356	24,941,911	339,831	10,958,830	967,525	13,983,081
1998	1,328,386	25,769,229	343,379	11,289,407	985,007	14,479,822
1999	1,346,760	26,378,527	346,637	11,520,754	1,000,123	14,857,773
2000	1,360,950	27,195,094	349,423	11,898,568	1,011,527	15,296,526
2001	1,372,448	28,285,459	351,356	12,366,564	1,021,092	15,918,895
2002	1,370,584	29,075,151	350,644	12,723,998	1,019,940	16,351,153
2003	1,374,800	29,327,303	350,804	12,842,916	1,023,996	16,484,387
2004	1,428,988	30,476,324	353,898	13,215,481	1,075,090	17,260,842
2005	1,430,534	32,037,354	354,422	13,789,741	1,076,112	18,247,612
2006	1,446,616	33,775,592	356,537	14,472,708	1,090,079	19,302,884
2007	1,459,539	35,506,256	358,636	15,124,034	1,100,903	20,382,221
2008	1,464,059	36,903,260	359,689	15,647,855	1,104,371	21,255,406
2009	1,468,377	39,537,154	360,521	16,690,574	1,107,856	22,846,580
2010	1,467,936	40,191,232	360,350	16,910,752	1,107,586	23,280,480
2011	1,471,219	40,527,701	361,080	16,998,098	1,110,139	23,529,603
2012	1,472,087	42,054,201	362,258	17,615,907	1,109,829	24,438,294
2013	1,470,803	43,093,615	362,934	18,063,904	1,107,869	25,029,711
2014	1,473,315	43,917,477	365,317	18,435,691	1,107,998	25,481,786
2015	1,474,116	44,929,542	367,786	18,925,172	1,106,330	26,004,370

Source: Department of Defense, Office of the Actuary, *Statistical Reports of the Military Retirement System: Fiscal Years 2009–2015*.

SUMMARY OF SIGNIFICANT STATUTES RELATING TO NONDISABILITY RETIREMENT AND RETIRED PAY

Enactment	Action
Act of February 28, 1855, ch. 127, 10 Stat. 616 (1855)	Authorized involuntary removal of Navy officers due to disability and other reasons.
Act of August 3, 1861, ch. 42, 12 Stat. 287 (1861)	Authorized voluntary retirement of all officers of all services after 40 years of service.
Act of December 21, 1861, ch. 1, 12 Stat. 329 (1861)	Permitted involuntary retirement of Navy officers after 45 years of service or at age 62.
Act of July 17, 1862, ch. 200, 12 Stat. 594 (1862)	Permitted involuntary retirement of Army and Marine Corps officers after 45 years of service or at age 62.

Enactment	Action
Act of July 15, 1870, ch. 294, 16 Stat. 315 (1870)	Authorized voluntary retirement of Army and Marine Corps officers after 30 years of service.
Act of June 30, 1882, ch. 254, 22 Stat. 118 (1882)	Made retirement mandatory at age 64 for officers of all services.
Act of February 14, 1885, ch. 67, 23 Stat. 305 (1885)	Authorized voluntary retirement of Army and Marine Corps enlisted personnel after 30 years of service.
Act of March 3, 1899, ch. 413, 30 Stat. 1004 (1899)	Authorized voluntary retirement of Navy enlisted personnel after 30 years of service.
Act of May 13, 1908, ch. 166, Pub. L. No. 60-115, 35 Stat. 501 (1908)	Authorized voluntary retirement of Navy officers after 30 years of service.
Act of August 29, 1916, ch. 417, Pub. L. No. 64-241, 39 Stat. 556, 558 (1916)	Created Fleet Naval Reserve; authorized voluntary transfer of Navy and Marine Corps enlisted personnel to Fleet Reserve after 16 years of active service.
Act of August 29, 1916, ch. 417, Pub. L. No. 64-241, 39 Stat. 556, 579 (1916)	Established "up-or-out" promotion system based on age-in-grade and integrated involuntary retirement system; first to use "standard" retired pay formula of 2.5 percent times years of service, up to maximum of 75 percent.
Act of June 4, 1920, ch. 227, Pub. L. No. 66-242, 41 Stat. 773 (1920)	Provided for classification of Army officers and authorized involuntary retirement of those designated "Class B".
Act of June 30, 1922, ch. 253, Pub. L. No. 67-259, 42 Stat. 716, 721 (1922)	Authorized involuntary retirement of Army officers chosen for elimination from active list by board of officers.
Act of February 28, 1925, ch. 374, Pub. L. No. 68-512, 43 Stat. 1080 (1925)	Raised from 16 to 20 years minimum length of active service required by Navy and Marine Corps enlisted personnel for eligibility for transfer to Fleet Reserve.
Act of June 22, 1926, ch. 649, Pub. L. No. 69-412, 44 Stat. 761 (1926)	Changed integrated Navy officer promotion/involuntary retirement system from age-in-grade to service-in-grade program.
Act of May 29, 1934, ch. 367, Pub. L. No. 73-263, 48 Stat. 811 (1934)	Made Marine Corps officers subject to Navy rather than Army retirement laws; brought them under Navy's promotion/ involuntary retirement system.
Act of July 31, 1935, ch. 422, Pub. L. No. 74-225, 49 Stat. 505 (1935)	Authorized voluntary retirement of Army officers after 15 years of active service.
Armed Forces Retirement Act of 1945, ch. 393, Pub. L. No. 79-190, 59 Stat. 53 (1945)	Authorized voluntary retirement of Army enlisted personnel after 20 years of active service.
Act of February 21, 1946, ch. 34, Pub. L. No. 79-305, 60 Stat. 26, 27 (1946)	Authorized voluntary retirement of Navy and Marine Corps officers after 20 years of active service including 10 years of commissioned service; lowered from 64 to 62 mandatory retirement age for such officers; temporarily authorized their involuntary retirement if chosen for elimination from active list by board of officers.
National Security Act of 1947, ch. 343, Pub. L. No. 80-253, 61 Stat. 495 (1947)	Created Department of the Air Force; made Army retirement laws applicable to Air Force personnel.
Officer Personnel Act of 1947, ch. 512, Pub. L. No. 80-381, 61 Stat., 795 (1947)	Established integrated promotion/ involuntary retirement system for officers of all services.

Enactment	Action
Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch 708, Pub. L. No. 80-810, 62 Stat. 1081 (1948)	Established retirement system for career personnel of Reserve and National Guard; authorized voluntary retirement of Army and Air Force officers after 20 years of active service, including 10 years of commissioned service; repealed 15-year voluntary retirement authority.
Warrant Officer Act of 1954, ch. 249, Pub. L. No. 83-379, 68 Stat. 157 (1954)	Established specific retirement system for warrant officers of all services.
Act of May 20, 1958 (Armed Forces Pay Act of 1958), Pub. L. No. 85-422, 72 Stat. 122 (1958)	Suspended "recomputation" method that by-and-large had been used to make post-retirement adjustments to retired pay since origin of military retirement system.
Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, 77 Stat. 210 (1963)	Replaced recomputation method of retired pay adjustments with an adjustment procedure based on increases in cost of living.
Department of Defense Authoriza -tion Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077, 1100 (1980)	Replaced use of terminal basic pay with monthly retired or retainer pay base (average of highest three years of basic pay) for determining retired or retainer pay entitlements.
Department of Defense Authoriza-tion Act, 1984, Pub. L. No. 98-94, 97 Stat. 614, 644–48 (1983)	Established Department of Defense Military Retirement Fund, under which military retirement costs were placed on an accrual accounting basis.
Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986)	Established new—and lower—retired pay multipliers for persons who first became members of the uniformed services after July 31, 1986. (The lower multipliers apply to all such retirees until they reach age 62, at which time the normal 2 1/2 percent per year multiplier for each year of qualifying service is restored.) Changed method for making adjustments to retired pay for persons who first became members of the uniformed services after July 31, 1986.
National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 662 (1999)	Established a retirement system option for members who joined after August 1, 1986, and reach 15 years of active service: accept the lower retired pay multipliers of the post-1986 Redux system with a one-time Career Status Bonus of $30,000 and an additional 5-year service obligation, or be covered by the "high-three" system in effect for members who joined between 1981 and 1986.

Chapter III.B.2.
Retired Pay for Non-Regular Service
(Reserve Retirement)

Legislative Authority: Chapter 1223, Title 10, United States Code, 10 U.S.C. §§12731–12739, 12741.

Purpose: To establish a system of nondisability retirement and authorize the payment of retired pay for service in the reserve components of the armed forces in order to provide an incentive for qualified personnel to retain membership and continue training in such components and thereby to provide a pool of skilled, trained, and readily available manpower to augment active-duty forces in times of national emergency.

Background: Title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, Pub. L. No. 80-810, Title III, §§301–313, 62 Stat. 1081, 1087–1091 (1948), created a program for nondisability retirement for reserve personnel. The House Armed Services Committee outlined the purpose of the program in these terms:

> The underlying purpose in writing this policy as to Reserve components into law is that the retirement benefits will furnish an incentive that will hold men in the Reserve components for a longer period of time. Almost every witness who testified on this feature of the bill stressed that the most desirable type of Reserve was a reserve of men with accumulated training. It was also pointed out that the direct monetary emoluments payable to Reserve officers and men were so small that in many instances as the men grew older, became married, and took on family obligations, unless an additional incentive were offered them, they would drop their Reserve training. The reason for this policy is that we now realize that in the chaotic, explosive, and small world in which we live we must have a relatively large group of Reserves, well trained, and able to render help at once in the event of an emergency. We are hoping that the provisions offered in this bill, which to many of us seem liberal, will be an incentive well worth working for. The result should be longer periods of service by Reserves and a larger and better-trained force on M-day, should we be so unfortunate as to have another M-day.[1]

Until 1993, the retirement system for reserve personnel remained basically unchanged from that enacted in 1948.[2] To qualify for retired pay under the system, a person[3] had to complete at least 20 years of "satisfactory Federal service" as a member of the armed forces, the last eight years of which had to be in a reserve component. Each anniversary year in which a member earns 50 or more retirement credit points constitutes a year of satisfactory federal service. Retirement credit points are, in effect, divided into two classes. One "active-duty" point is earned for each day of active-duty or active-duty training;[4] one "inactive-duty" point is earned for attendance at a unit training assembly. Section 206 of title 37, United States Code, specifies that compensation for each regular period of instruction or period of appropriate duty shall be a minimum of at least two hours. However, Department of Defense policy[5] specifies that for periods of inactive duty that are performed with pay, the minimum period of duty shall be four hours. If the inactive duty is performed without pay, the minimum period of duty shall be two hours. Within these restrictions, a member may perform two drills, or unit training assemblies or periods of equivalent instruction or training in a single calendar day, with two points awarded for

[1] H.R. Rep. No. 816 (Committee on Armed Services), at 11, accompanying H.R. 2744, 80th Cong., 1st sess. (1947).
[2] Subtitle C of the Reserve Officer Personnel Management Act, adopted as Title XVI of the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, Title XVI, 108 Stat. 2663, 2921 *et seq*. (1994), substantially reorganized the provisions of prior law relating to reserve retirement but did little substantively to the structure of the reserve retirement system considered as a whole.
[3] Unlike entitlement to other military retired pay, the holding of a military status is not a condition of eligibility for reserve retired pay.
[4] Normally, members of a troop program unit attend at least 15 days of annual training each fiscal year.
[5] DoD Instruction 1215.19, "Uniform Reserve, Training and Retirement Category Administration," December 12, 2000.

the performance of "multiple drills." Additionally, 15 inactive-duty points per year are awarded for reserve membership. Inactive-duty points may also be earned for completion of accredited correspondence courses.

> There is no limit, other than the calendar, on the number of active-duty points that may be earned in a year. However, there is a limit on the number of inactive-duty points that may be credited in a year for computing retired pay. Prior to enactment of the National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2517, more than 60 inactive-duty points could be credited for computing reserve retired pay. The National Defense Authorization Act for Fiscal Year 1997 increased the maximum number of points per year. For each anniversary year that closed before September 23, 1996, the maximum number of creditable inactive-duty points remained sixty, but for anniversary years that closed on or after September 23, 1996 the maximum number of points that could be credited in computing retired pay was increased to 75. The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-163, again increased the maximum number of points that could be credited in computing retired pay. For anniversary dates that close on or after October 30, 2000, the maximum number of inactive-duty points that may be credited for computing retired pay is 90. The law does not require an actual point accounting for service prior to July 1, 1949; each year of membership in a reserve component before that date automatically counts as a year of satisfactory federal service, and members are arbitrarily awarded 50 inactive-duty points for each such year in the computation of creditable service for retirement purposes.

For persons who first became members of an armed force before September 8, 1980 (the effective date of the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §813(a)(1), 94 Stat. 1077, 1100–1101 (1980)),[6] reserve retired pay for any particular member is computed by (1) dividing the member's cumulative active and inactive point total by 360 to convert the points into years of service and any fraction thereof; (2) taking the monthly basic pay rate for the member's grade and length of service at the time the member becomes entitled to retired pay at age 60; (3) multiplying that rate by 2.5 percent of the years of service credited to the member through the point-conversion process; and (4) subtracting any excess over 75 percent. As compared with retired pay for other than reserve service, this formula produces one year of service credit for each 360 points. Hence, a reserve member who serves on active duty for an entire year, and therefore earns 365 or 366 points on a day-for-day basis, receives slightly more than one year of service credit for that year. Also, reserve members who perform the maximum permissible two drill periods during one day may earn a point for each drill. The monthly basic pay rate used in the formula allows longevity credit for all service that may be counted for basic pay purposes, including years of reserve membership where the "satisfactory Federal service" standard is not met, and all service on the reserve retired list before retired pay commences. Years of service are not rounded in the calculation of reserve retired pay: the percentage multiple reflects the precise amount of a member's years, months, and days of service.

For a person who first became a member of an armed force on or after September 8, 1980,[7] the formula is essentially the same, but instead of using the monthly basic pay of the member's grade and length of service at the time the member became eligible for retired pay at age 60, the 1981 Authorization Act, Pub. L. No. 96-342, *id*., requires the use of an average of the monthly basic pay to which the member would have been entitled had the member been on active duty for the last three years as a member of a reserve component of an armed

[6] The Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980), was enacted and became effective on September 8, 1980.
[7] See footnote 5 to this chapter, above.

force.[8] [10 U.S.C. §1407(b) and (d)(1);[9] see 10 U.S.C. §12739.] Neither pay received for active-duty training nor reserve compensation received under Section 206 of Title 37, United States Code, 37 U.S.C. §206, is relevant in determining reserve retired-pay entitlements.

> Entitlement to reserve retired pay begins at age 60. 10 U.S.C. §12731(a)(1). Entitlement evidently was set at this age because, at the time the pay was established by the Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708 [Pub. L. No. 810, 80th Congress], 62 Stat. 1081 (1948), age 60 was the minimum age at which federal civil service employees could voluntarily retire, although there is no explicit expression of Congressional intent in this regard. Indeed, the only reference in the legislative history to the issue of when retired pay for reserve service should commence is in a colloquy between a member of the House Armed Services Committee and Mr. Melvin J. Maas, the then-President of the Federation of Reserve Officer Associations:
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> Mr. VAN ZANDT: Colonel, why is it that you establish the age of 60 and the retirement of 20 years?
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> Mr. MAAS: Well, that was put in by the services, and I think I understand their reason. As some of you gentlemen know, I introduced similar legislation several times when I was a Member of this body. I had no age restriction in it. However, I believe that there must be a minimum age limit, and I do not disagree with 60. Otherwise, the Reservist could qualify by the time he was 40 or 41 for retirement and he would get maybe $50, $60, or $75 a month. We would in effect be subsidizing him as against others in civil employment, and I don't think it would be desirable. Furthermore, the cost would be prohibitive.
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> All we are seeking really to do is to partially compensate this individual in his later years for the great sacrifices he made during his earning capacity. I think 60 is a reasonable age. There are many who feel that it ought to be 55. If and when civil service is brought down to 55 or a straight 30 years, then I think this should be. In the meantime, I have no quarrel with the age 60 in it.
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> Mr. VAN ZANDT: How would the suggestion of 55 years of age and 30 years of service be? What is your reaction to that?
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> Mr. MAAS: The question is a good one, because in the Navy you can retire now with your Regular emoluments after 20 years regardless of any age. There is no restriction on the age at which a Regular in the Navy can retire, and I assume there won't be in the Army if title I and title II of this bill are approved and the bill is passed. At the present time I see no great question of moment in it. I think we would probably prefer 55 because it might take more people out of active competition for employment. If a reservist had a modest retirement from this source, plus what he might have accumulated, he might be willing to quit active

[8] That is, in computing reserve retired pay under the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, 94 Stat. 1077 (1980), not only is the use of an average of monthly basic pay required, but the basic pay rates to be averaged for a specific individual are the pay rates in effect for the last three years the individual in question was a member of an armed force. This contrasts with the prior practice under which the reserve retired pay of a particular individual was calculated on the basis of the pay rates in effect at the time the individual became entitled to retired pay. See, e.g., footnote 2 to Formula 3 of 10 U.S.C. §1401. (The practical effect of this change is to freeze the reserve retired pay entitlement of any affected member who will separate from a reserve component of an armed force before reaching age 60.)

[9] See e.g., S. Rep. No. 96-826 (Committee on Armed Services), at 130; H.R. Rep. No. 96-1222 (Committee of Conference), at 98; and S. Rep. No. 96-895 (Committee of Conference), at 94, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).

> competitive employment at 55 and make a few more jobs for younger men, when the time comes, which we certainly will face.[10]

In addition to completing 20 years of satisfactory federal service and reaching age 60, the Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, *id*., required that each person who was a member of a reserve component before August 16, 1945, must have served on active duty for some period between April 6, 1917, and November 11, 1918, or between September 9, 1940, and January 1, 1947, to qualify for reserve retired pay. This requirement reflected the congressional view that a person who was a reservist during World War I or II should have performed active duty during the period if his reserve membership were to carry out its intended purpose.

There have been a number of modifications to the retirement system for reserve personnel since 1948, but the purpose of these modifications has been more remedial than substantive. The first of the amendatory actions, the Act of August 21, 1958, Pub. L. No. 85-704, 72 Stat. 702 (1958), allowed a member of the reserve before August 16, 1945, to fulfill the active-duty-in-time-of-war eligibility requirement for reserve retired pay through active service during the Korean conflict, from June 27, 1950, through July 27, 1953.

The Act of August 25, 1959, Pub. L. No. 86-197, 73 Stat. 425 (1959), allowed credit in the reserve retired pay system for continuous service in the federally recognized National Guard between June 15, 1933, and the date of a member's appointment or enlistment in the National Guard of the United States.[11] The Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, Pub. L. No. 80-810, Title III, §§301–313, 62 Stat. 1081, 1087–1091 (1948), authorized credit for National Guard service before the date of enactment but, on the theory that membership in the National Guard constituted "state" service, whereas membership in the National Guard of the United States represented "federal" service once the new reserve component had been established, allowed credit only for service in the National Guard of the United States after June 14, 1933. There had, however, been an administrative delay in enrolling members of the National Guard into the National Guard of the United States, and the effect of the Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, *id*., was to penalize members whose enrollments had been delayed through no fault of their own. The Act of August 25, 1959, Pub. L. No. 86-197, *id*., effectively made sure that members whose enrollments had been delayed did not suffer as a result.

The Act of August 25, 1959, Pub. L. No. 86-197, 73 Stat. 425 (1959), also authorized credit for service as a naval aviation cadet between 1935 and 1942. The Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, Pub. L. No. 80-810, Title III, 62 Stat. 1081, 1087–1091 (1948), defined creditable service as that performed "in the status of a commissioned officer, warrant officer, flight officer, or enlisted personnel." Under the Navy's aviation cadet law of 1935, until it was amended in 1942, naval aviation cadets did not fit into any of these categories. They remained designated as aviation cadets for three years following flight training, after which they became eligible for appointment as commissioned officers. The Act of August 25, 1959, Pub. L. No. 86-197, 73 Stat. 425 (1959), thus remedied the—presumably unintentional—omission of naval aviation cadets from the category of persons entitled to credit for periods of active service between 1935 and 1942.

The Act of October 14, 1966, Pub. L. No. 89-652, §1, 80 Stat. 902 (1966), recognized the complexity and error-prone nature of the reserve retirement point system by requiring that each person who completed 20 years of satisfactory federal service be notified of his or her eligibility for retired pay within one year after completing that service. Once such notification was given, or after retired pay was awarded, the person's eligibility could not be revoked on the basis of error, miscalculation, misinformation, or administrative

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[10] *Subcommittee Hearings on H.R. 2744 to Provide for the Selection for Elimination and Retirement of Officers of the Regular Army, for the Equalization of Retirement Benefits for Members of the Army of the United States, and for Other Purposes,* Hearings on H.R. 2744 before Subcommittee No. 7, Retirement, House Committee on Armed Services, printed in *Hearings before the Committee on Armed Services of the House of Representatives on Sundry Legislation Affecting the Naval and Military Establishments*, 80th Cong., 1st sess., 3363 (1947).

[11] The National Guard of the United States was created as a reserve component of the Army on June 15, 1933.

determination of years of service, unless such eligibility determination had been based on fraud or misrepresentation of the person concerned. (The amount of the pay may be adjusted on the basis of corrected information, but retired pay eligibility remains in force even if the person would not otherwise be eligible.)

The Act of August 13, 1968, Pub. L. No. 90-485, §2, 82 Stat. 751, 754 (1968), makes the uniform retirement date rule inapplicable to reserve retired pay. The Uniform Retirement Date Act, 5 U.S.C. §8301 as added by Section 8301 of the Act of September 6, 1966, Pub. L. No. 89-554, §1 (§8301), 80 Stat. 378, 557 (1966), provides generally that retirement authorized by statute is not effective until the first day of the month following the month in which retirement would otherwise occur. Thus, until reserve retired pay was exempted from the rule, a person who reached age 60 and was otherwise qualified to receive such pay was subject to a delay of up to 30 days before actually becoming entitled to pay. The loss of a few days of retired pay was not a particularly serious matter, but if, as had happened, an affected person died between his or her sixtieth birthday and the first of the next month, the person's family was not eligible for military survivor benefits, including the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan. See Chapter IV.C.2., "Survivor Benefit Plan," below. The Act of August 13, 1968, Pub. L. No. 90-485, *id*., by making the Uniform Retirement Date Act inapplicable to reserve retirements, remedied this and similar anomalies.

The Uniformed Services Survivors' Benefits Amendments of 1978, Pub. L. No. 95-397, §202, 92 Stat. 843, 844–45 (1978), extended coverage under the Survivor Benefit Plan to members of reserve components who would be eligible for reserve retired pay except for being under 60 years of age.[12] Under prior law, the survivors of a member of a reserve component who died after having become eligible for reserve retired pay through having completed 20 years of satisfactory service but before becoming entitled to such pay at age 60 were not eligible for any benefits under the Survivor Benefit Plan, and Congress felt such survivors should be eligible for the same protection available to members entitled to retired or retainer pay for other than non-regular service.[13]

Effective October 1, 1984, appropriations are made every year to fund future entitlements to retired pay of reserve forces personnel in the Ready Reserve. Such appropriations are paid into the Department of Defense Military Retirement Fund pursuant to provisions of the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §925(a)(1), 97 Stat. 614, 644–48 (1983). Apart from providing an accrual accounting system for reserve retirement and establishing a fund to defray future retirement costs associated with service in the Ready Reserve, neither the Military Retirement Fund per se nor its establishment has any effect on retirement entitlements of reserve forces personnel or on how reserve forces personnel accumulate retirement credit. [See discussion of the Department of Defense Military Retirement Fund in Appendix I hereof. Also see 10 U.S.C. §§1461–1467 (codifying provisions relating to the Department of Defense Military Retirement Fund) generally and 10 U.S.C. §1466(a)(2) in particular (relating to the amount required to be paid into the Military Retirement Fund on account of compensation paid to reserves).]

The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, 106 Stat. 2315 (1992), adopted two provisions intended as inducements to members of the Selected Reserves of the Armed Forces to apply for transfer to the retired reserve. Section 4416(b) of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id*., §4416(b), 106 Stat. 2715, provided that a member of the Selected Reserve less than 60 years of age but with 20 or more years of creditable service for reserve retirement who applied for transfer to the retired reserve would be eligible for an annual payment for a period up to five years[14] computed by multiplying the product of 12 and the monthly basic pay the member would be entitled to if serving on active duty by a percentage factor computed by adding 5 percent plus 0.5 percent for each year of retirement-

[12] Survivor Benefit Plan—frequently referred to as SBP—coverage is optional for members of reserve components. For reservists electing coverage, the reserve retired pay to which they would otherwise be entitled at age 60 is actuarially reduced so that they bear a portion of the cost of the coverage. (For a description of the SBP program, see Chapter IV.C.2., "Survivor Benefit Plan," below.)

[13] e.g., S. Rep. No. 95-1138 (Committee on Armed Services), at 3–6, accompanying H.R. 3702, 95th Cong., 2d sess. (1978).

[14] Or until the member reached 60 years of age, whichever first occurred.

creditable service, up to a maximum of 10 percent. Section 4417(a) of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id*., §4417(a), 106 Stat. 2716, added new temporary special retirement authority—originally codified at 10 U.S.C. §1331a (since redesignated as 10 U.S.C. §12731a)—under which a member of the Selected Reserve of an armed force with more than 15 but less than 20 years of creditable service for reserve retirement could be transferred to the retired reserve with entitlement to retired pay for non-regular service to commence when the member reached age 60.

In support of the special retirement authorities adopted by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id*., the Senate Armed Services noted as follows:

> The Defense Department has proposed reducing National Guard and Reserve personnel strength by over 250,000 by the end of fiscal year 1995.... [T]he committee notes that DOD had made no plans for the transition of personnel who would be affected by the proposed reduction.... The committee believes that such a plan is essential.
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> . . .
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> [One provision of the Senate bill] would allow Selected Reservists who have 20 years of credit for reserve retirement and who are in a Selected Reserve unit to apply for reassignment from the Selected Reserve to the Retired Reserve in order to draw an immediate, reduced retirement annuity.
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> Under current rules, Selected Reservists who have completed at least 20 years of service creditable for reserve retirement are eligible to draw their reserve retirement annuity at age 60. This rule tends to entice Selected Reservists to remain in the Selected Reserve well after they accumulate 20 years of credit for reserve retirement. Consequently, there is a relatively rich supply of these individuals in the Selected Reserve. This provision would provide an incentive for some of these people to voluntarily leave the Selected Reserve and reduce the pressure on involuntary removals as the reserve components build down.
>
> The reduced retirement annuity under this provision would be paid over a five- year period or up until an individual reaches age 60, whichever is shorter. The annuity would be five percent plus .5 percent for each full year of service past 20 years that an individual has completed multiplied by the annual basic pay to which the individual would be entitled if on active duty. The percent multiplier would be capped at 10 percent.
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> . . .
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> [The second provision] would allow Selected Reservists who have at least 15 but less than 20 years of credit for reserve retirement to apply for assignment from the Selected Reserve to the Retired Reserve. Such personnel would be eligible for reserve retirement pay at age 60 based on the number of years of reserve retirement credit they have accrued.... As in the Selected Reserve population with over 20 years of service for reserve retirement, there is a rich supply of personnel with 15 to 20 years of credit for reserve retirement.
>
> The retirement provisions (an immediate annuity for those with over 20 years, and the 15 year retirement authority) will aid the National Guard and reserve components in encouraging the voluntary retirement of Selected Reservists who become surplus to requirements, and facilitate the realignment of personnel among remaining billets as Guard and reserve units are downsized to maintain a better balance between youth and experience.[15]

As originally enacted, both programs were to be applicable from the time of enactment of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id*., until October 1, 1995, but that date

[15] S. Rep. No. 102-352 (Committee on Armed Services), at 203–4, accompanying S. 3114, 102d Cong., 2d sess. (1992). See H.R. Rep. No. 102-966 (Committee of Conference), at 889–90, accompanying H.R. 5006, 102d Cong., 2d sess. (1992).

was subsequently extended to October 1, 1999, by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §561(f)(2)(A)(ii) (special five-year-annuity authority) and §561(f)(4) (early-retirement authority), 107 Stat. 1547, 1667–1668 (1993).

The National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §517, 108 Stat. 2754 (1994), added a new temporary authority to facilitate the reduction of the Selected Reserve. This provision amended 10 U.S.C. §12731a(c) (since redesignated as 10 U.S.C. §12731a(c)) to provide early qualification for retired pay for a member who had completed 15 or more years of qualifying service as computed under 10 U.S.C. §1331 (since redesignated as 10 U.S.C. §12731) and no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of a physical disability. However, notification of eligibility for retired pay may not be made if the disability is the result of the member's intentional misconduct, willful neglect, willful failure to comply with standards and qualifications for retention, or was incurred during a period of unauthorized absence.

The National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §636, 108 Stat. 2663 (1994), added a second temporary authority to facilitate the reduction of the Selected Reserve by amending 10 U.S.C. §1331 (since redesignated as 10 U.S.C. §12731) to temporarily reduce the minimum required reserve service for eligibility for retired pay for non-regular service from eight years to six years.

All of these temporary authorities were again extended until to October 1, 2001, by the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, §561, 112 Stat. 2025 (1998).

> The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, §653(b)(1), 113 Stat. 666, added 10 U.S.C. §12731b to make permanent the authority to provide early notification of eligibility for retired pay for members who no longer meet the qualifications for membership in the Selected Reserve solely because of physical disability. Like the temporary provision, this new provision requires that the member have completed at least 15 years of qualifying service as computed under 10 U.S.C. 12731. This provision also precludes providing notification to the member if the disability is the result of the member's intentional misconduct, willful neglect, willful failure to comply with standards and qualifications for retention, or was incurred during a period of unauthorized absence.

The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, §631, 116 Stat. 2571 (2002), amended 10 U.S.C. §12731 to permanently reduce the years of reserve service required for eligibility for retired pay for non-regular service from eight years to six years except in the case of members who completed at least 20 years of qualifying service as computed under 10 U.S.C. 12732 before October 5, 1994, in which case the reserve service requirement remained eight years.

The requirement to perform a minimum number of years of reserve service to become eligible for retired pay for non-regular service was repealed by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, §501 (f), 118 Stat. 1811 (2004), for members who complete 20 years of qualifying service (as computed under 10 U.S.C. 12732) 180 days on or after the date of enactment of the Act.

The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, §517, 115 Stat. 1094 (2001), amended 10 U.S.C. §10154, §14513, §14514, §14515 and added §12244 and §12108 to permit reserve-component members who have reached the maximum years of service or age and have qualified for a reserve retirement to be transferred to the retired reserve without the requirement for formal application or request. The member has the option of requesting that he or she not be transferred to the retired reserve, but rather transferred to another appropriate reserve status as provided in law or discharged.

The National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, §632, 116 Stat. 2572 (2002), amended 10 U.S.C. §12739 to authorize a 10-percent increase in reserve retired pay, but not to exceed 75 percent, for a enlisted member who has been credited with extraordinary heroism in the line of duty

as determined by the Secretary concerned. To qualify for the increase in retired pay, the highest grade satisfactorily held in the armed forces by the person at any time was an enlisted grade.

Like members on the retired rolls of regular components of the armed forces, members of the reserves who have completed at least 20 years of active service are explicitly subject to recall to active duty at any time in order to augment active-duty forces. [See 10 U.S.C. §688(a).] Under the Defense Officer Personnel Management Act, Pub. L. No. 96-513, §106, 94 Stat. 2835, 2868 (1980), such members may be ordered to active duty by the Secretaries of the affected military departments under regulations prescribed by the Secretary of Defense and assigned to any duties deemed "necessary in the interests of national defense."[16] While this new provision merely "restated" the existing authority with respect to Army and Air Force personnel, it specifically included Navy and Marine Corps personnel for the first time.[17]

The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-164 (2000), provided for a member to elect a reserve retirement at age 60 after becoming entitled to retired pay under chapters 65, 367, 571, or 867 of title 10, United States Code, for regular service. To be eligible for conversion from regular retirement to retirement from active reserve service, the member must have served in active status in a reserve component after having become entitled to retired pay for active duty service. If the member qualifies, entitlement to regular retired or retainer pay ceases and the member is transferred to the appropriate reserve retirement category. The effective date of the election is the date on which the person reaches sixty years of age or later, depending on the date the Secretary concerned receives the request from the member.

The National Defense Authorization Act for Fiscal Year 2008 allows up to 130 days in the year of military service that includes October 30, 2007, and any subsequent year of service to be used in the computation of years of service for purposes of retired pay for non-regular (reserve) service.[18]

Section 647 of the National Defense Authorization Act for Fiscal Year 2008 also amended 10 U.S.C. 12731(f)(2)(a) to allow for a reduction in the age of eligibility to receive non-regular retired pay. This reduction became effective on January 28, 2008. This provision allowed a reduction in the age of eligibility for non-regular retired pay below 60 years of age by three months for each aggregate of 90 days on which such person so performs in any fiscal year after January 28, 2008. Qualifying service on active duty is service on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) or under section 12301(d) of Title 10. Such service does not include service on active duty pursuant to a call or order to active duty under section 12310 of Title 10.

The National Defense Authorization Act for Fiscal Year 2010 amends 10 U.S.C. 12739 to provide for the recomputation of retired pay and adjustment of retired grade of reserve retirees who have been recalled to active status in the Selected Reserve for at least two years. The law also amends 10 U.S.C. 12741 to allow members who serve in an active reserve status in the Selected Reserve for at least two years, after having attained eligibility for active-duty retirement, to elect non-regular retirement instead and to make a member eligible for retirement upon meeting all qualification requirements, regardless of whether the member actually retired or has received retired or retainer pay. The law also authorizes, in an identical amendment to 10 U.S.C. 12739 and 12741, the Secretary to reduce the two-year service requirement for a member recalled to serve as an adjutant or assistant adjutant general in the National Guard if the member serves one year, but cannot serve two years because of the legal requirements of the state, district, or territory in which the member is serving.[19]

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[16] See, e.g., S. Rep. No. 96-375 (Committee on Armed Services), at 26, and H.R. Rep. No. 96-1462 (Committee on Armed Services), at 80–81, accompanying S. 1918, 96th Cong., 2d sess. (1980).
[17] See, e.g., S. Rep. No. 96-375 (Committee on Armed Services), at 26, and H.R. Rep. No. 96-1462 (Committee on Armed Services), at 80–81, accompanying S. 1918, 96th Cong., 2d sess. (1980).
[18] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle D, Sec. 648, 122 Stat. 3, 161 (2008).
[19] National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84, Title VI, Subtitle D, Sec. 642-643, 123 Stat. 2190, 2365-66 (2009).

The Ike Skelton National Defense Authorization Act for Fiscal Year 2011 amended 10 U.S.C. 12731 to reduce the eligibility age for entitlement to non-regular retirement if reserve members receive medical care for wounds, injuries, or illnesses incurred while performing active duty.[20]

The National Defense Authorization Act for Fiscal Year 2014 directed the Secretary concerned to periodically notify members of the Ready Reserve of their current eligibility age for retirement pay, including the amount by which their eligibility retirement age (generally, 60) has been reduced by periods served after January 28, 2008, on active duty or in active federal status.[21]

The Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 amended 10 U.S.C. 12731(f)(2)(a) to clarify that qualifying days of service to reduce the age for eligibility for reserve retired pay may be accumulated in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014.[22]

The National Defense Authorization Act for Fiscal Year 2016 established the modernized retirement system for members of the Uniformed Services. Called the "Blended Retirement System" by the Uniformed Services, this reform to nondisability retirement will go into effect on January 1, 2018. The Blended Retirement System, or BRS, reduces the retired pay multiplier from 2 ½ times the number of years of creditable service times the retired pay base to 2 times the number of years of creditable service times the retired pay base. To off-set the reduction of the defined benefit, all Uniformed Service members who are enrolled or who choose to enroll in the BRS will receive automatic and matching contributions to a Thrift Savings Plan (TSP) account, similar to a civilian 401k retirement defined contribution plan. All new Uniformed Service members joining on or after January 1, 2018, will be automatically enrolled in the BRS and the TSP. All members who were serving prior to that date are grandfathered under the "legacy" retirement plans. Any reserve component member who has accumulated fewer than 4,320 retirement points as of December 31, 2017, will have the opportunity of electing to switch to the BRS upon its implementation on January 1, 2018.

Cost: For the cost of retired pay for non-regular service from 1972 to 2015, see table III-3, below.

Table III-3. Retired Pay for Non-Regular Service (Reserve Retirement), 1972–2015

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	48,495	$146,751	43,143	$137,721	5,352	$9,030
1973	51,593	174,641	45,525	163,739	6,068	10,902
1974	55,953	175,359	48,999	160,802	6,954	14,557
1975	60,378	214,033	52,337	193,005	8,041	21,028
1976	66,834	319,609	57,492	284,990	9,342	34,619
1977	77,587	350,800	65,791	319,713	11,796	31,087
1978	87,979	470,631	74,236	428,066	13,743	42,565
1979	102,052	564,565	85,099	509,953	16,953	54,612
1980	112,744	687,402	92,961	617,656	19,783	69,746
1981	123,278	847,662	100,589	750,550	22,689	97,112
1982	133,244	962,111	107,150	851,990	26,094	110,121
1983	141,199	1,058,969	112,325	930,654	28,874	128,315

[20] Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, Title VI, Subtitle D, Sec. 633, 124 Stat. 4137, 4240 (2011).
[21] National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, Title VI, Subtitle D, Sec. 632, 127 Stat. 672, 785 (2013).
[22] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub.L.No. 113-291, Title VI, Subtitle C, Sec. 625, 128 Stat. 3292, 3405 (2014).

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1984	148,783	1,118,259	116,766	974,636	32,017	143,623
1985	154,674	1,195,758	119,551	1,032,107	35,123	163,651
1986	158,684	1,226,456	120,784	1,048,691	37,900	177,765
1987	162,019	1,259,886	121,263	1,066,066	40,756	193,820
1988	166,267	1,324,390	122,304	1,108,871	43,963	215,519
1989	172,083	1,408,654	124,118	1,166,281	47,965	242,373
1990	179,185	1,518,437	126,258	1,241,772	52,927	276,665
1991	187,206	1,690,445	128,247	1,375,474	58,959	314,971
1992	193,283	1,759,599	129,105	1,393,256	64,178	366,343
1993	198,044	1,847,797	129,373	1,442,192	68,671	405,605
1994	203,779	1,920,477	129,725	1,476,513	74,054	443,964
1995	209,200	2,021,955	129,579	1,528,277	79,621	493,678
1996	215,688	2,112,497	129,552	1,569,292	86,136	543,205
1997	221,193	2,222,174	129,254	1,621,862	91,939	600,312
1998	227,654	2,317,872	129,324	1,666,189	98,330	651,683
1999	233,191	2,392,614	129,131	1,695,215	104,060	697,399
2000	237,833	2,484,258	128,551	1,736,818	109,282	747,440
2001	242,555	2,606,237	128,007	1,798,067	114,548	808,170
2002	249,111	2,736,144	128,322	1,861,689	120,789	874,455
2003	258,611	2,850,926	129,503	1,911,757	129,108	939,169
2004	270,485	3,025,604	131,713	1,994,783	138,772	1,030,820
2005	280,680	3,199,934	133,249	2,025,646	147,431	1,174,288
2006	293,014	3,453,971	135,311	2,140,778	157,703	1,313,193
2007	312,647	3,798,231	139,867	2,291,762	172,780	1,506,469
2008	328,664	4,168,019	142,648	2,493,689	186,016	1,674,330
2009	344,393	4,645,347	145,605	2,816,872	198,788	1,828,475
2010	356,602	4,894,964	147,031	2,921,696	209,571	1,973,268
2011	366,823	5,059,115	147,842	2,978,746	218,981	2,080,369
2012	376,052	5,364,306	148,427	3,122,195	227,625	2,242,111
2013	383,490	5,624,839	148,863	3,242,070	234,627	2,382,769
2014	389,750	5,846,192	149,361	3,347,412	240,389	2,498,780
2015	395,808	6,075,990	149,723	3,460,150	246,085	2,615,840

Source: Department of Defense, Office of the Actuary, *Statistical Reports of the Military Retirement System: Fiscal Years 2009–2015*.

Chapter III.B.3.
Disability Retired Pay

Legislative Authority: Chapter 61, Title 10, United States Code, 10 U.S.C. §§1201–1221.

Purpose: To authorize a continuing payment to members separated from active service in the uniformed services of the United States because of physical disability, both in order to assure such members that, if they are ever disabled in the service of their country, they will not be left to cope with the effects of such disabilities on their own and in recognition of the need to provide some measure of economic security for personnel whose duties necessarily expose them to the hazards of wartime and career military service.

Background: The practice of providing for special compensation to be paid to persons disabled while performing military service can be traced to some of the earliest enactments of the Federal Congress.[1] The Act of April 30, 1790, ch. 10, §11, 1 Stat. 119, 121 (1790), for example, allowed the placement of disabled military personnel on "the list of the invalids of the United States." While on this "invalid," or pension, list, officers could receive up to one-half their "pay," and enlisted personnel could receive up to $5 a month for life.

This system continued to be the sole means by which disabled military personnel who left active service could be compensated until 1855. The Act of February 28, 1855, ch. 127, §1, 10 Stat. 616 (1855), was the first law to grant any service involuntary-separation authority. It permitted the Secretary of the Navy to convene examining boards to determine the capability of officers for "performing promptly and efficiently all their duty both ashore and afloat" and to remove any officer determined not capable of such performance. Officers removed from active duty under this authority were to be placed on a "reserved list" with either leave-of-absence pay (approximately 75 percent of sea duty pay) or furlough pay (50 percent of leave-of-absence pay), unless it was also determined that the officer was to blame for the incapacity, in which event the officer was to be dropped from the rolls without pay. The Act of February 28, 1855, ch. 127, *id*., was not limited to separation for physical disability, as this excerpt from a report of the examining board makes clear:

> An officer may possess a strong mind and a robust frame, yet, if his moral perception of right or wrong be so blunted and debased as to render him unreliable, he could hardly be ranked as the capable officer.[2]

At the outbreak of the Civil War, the Navy thus had—at least formally—removal authority, but it was rarely exercised. The Army and Marine Corps, on the other hand, had no such authority at all. While disabled members did have some financial security, the military services needed more forceful authority to purge their active lists of physically unfit members: the choice of staying or leaving rested with the individual. The effect on the military services of this effective lack of removal authority was pointedly described shortly after the outbreak of the Civil War in a Senate debate on a military retirement bill:

> Mr. GRIMES: Mr. President, I think the Senate and the country have been taught a lesson within the past few months on this subject.... [T]he immense destruction of public property at Norfolk was occasioned more on account of the age and the weakness and the inability of the commanding officer, who was upon your active list, to discharge the duties of his position properly, than from any other reason; not that he has not been one of the most gallant and efficient officers of our [naval] service, but the time for his service has passed by, and the Government ought to have furnished a retired list on which he could have retired years ago, reputably and safely to himself and the country....[3]

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[1] This chapter is concerned mainly with special compensation for members of the armed forces separated from active military service upon being found physically unable to perform the duties of their office or grade. As such, it does not address the complementary body of law administered by the Department of Veterans Affairs providing compensation and other benefits to veterans who suffer a disability as the result of performing military service.

[2] Appendix to the Secretary of the Navy's *Annual Report to the President* for 1855.

[3] *Congressional Globe*, 37th Cong., 1st sess., 1861, 158 (statement of Senator Grimes).

. . .

> Mr. WILSON: ... Why, sir, take the four regiments of artillery, the most important part of the Army. Four of those colonels ought to be retired. Not one of those colonels to -day, owing to their age or infirmities, or other causes, will be ordered into the field. Two of the four lieutenant colonels are in the same condition, and some of the majors. Go to your other regiments and you will find worn out, sick, or disabled officers in high positions. They cannot go into the field at the call of their country. You have to pay them where they are. Age adds to their receipts. They render no service whatever; and the younger officers who are called into the field, captains to command regiments, are to receive the pay of captains to fight the battles of the country, and have no promotion. The truth is, and if you take the Army Register, and examine it carefully, you will find it so, that as you approach towards the head of the Army, your officers are paralyzed by age.[4]

In response to these and similar concerns, Congress, in the Act of August 3, 1861, ch. 42, §§16 and 22, 12 Stat. 287, 289, 290 (1861), established a system of military disability retirement that covered regular officers of all branches of service. The basic principles of this system continued to govern disability retirements until a substantially revised system was introduced in the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §402, 63 Stat. 802, 816–20 (1949). The Act of August 3, 1861, ch. 42, §17, 12 Stat. 289–90, permitted a board of officers, with powers analogous to a court of inquiry or court-martial, to be convened to determine "the facts as to the nature and occasion of the disability of such officers as appear disabled" and to report whether "the said incapacity results from long and faithful service, from wounds or injury received in the line of duty, from sickness or exposure therein, or from any other incident of service."

Army and Marine Corps officers retired for disability under the Act of August 3, 1861, ch. 42, §16, 12 Stat. 289, were entitled to retired pay in an amount equal to their "pay proper" plus four "rations." The four "rations" had a commuted cash value of $36 a month.[5] The reason for inclusion of "rations" as part of disability retired pay derives from the way active-duty pay was administered at the time. The active-duty pay scale prescribed but one rate, called "pay proper," for each officer grade. In addition to "pay proper," however, each officer was entitled to from four to six "rations," depending on grade, and to one additional "longevity" ration for each five years of service. "Rations" were thus an integral part of an officer's "pay" and were used instead of pay proper to effect longevity pay increases. Under the retirement bill passed by the House, a retired officer would have received pay proper and longevity pay ("rations"), but not the four to six "rations" allowed for grade. The Senate amended the bill by completely eliminating "rations" from the retired- pay formula and fixing it as "pay proper" alone. A compromise was reached that arbitrarily gave each retired officer four longevity "rations," regardless of the number the officer was actually receiving as part of active-duty pay at the time of retirement for disability. A result was that all members of the same grade were entitled to the same amount of disability retired pay. But, in terms of percentage of active-duty "pay," disability retired pay became progressively less as length of service increased. The entitlement of a colonel, for example, was $131 a month ($95 pay proper plus $36 for rations). This was approximately 70 percent of the active-duty "pay" of a colonel with 20 years of service, 67.5 percent of the "pay" of a colonel with 25 years of service, and 65 percent of the "pay" of a colonel with 30 years of service. An Army or Marine Corps officer retired for a disability that did not result from military service was entitled, at the discretion of the Secretary concerned, to either pay proper alone, or to longevity "rations" alone, or the officer could be "wholly retired" (separated) with one year's pay and allowances.

Since active-duty Navy officers were not under the "pay-proper-plus-rations" system, the Act of August 3, 1861, ch. 42, §22, 12 Stat. 290–91, stated their entitlement to disability retired pay in terms of a specified dollar amount for each grade, plus "four rations per day to be commuted at 30 cents each ration." As of the effective date of the 1861 act, the specified dollar amount for a Navy officer was slightly more than the pay proper of an Army officer of corresponding grade; thus, the retired pay of a Navy officer was slightly larger than that of an

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[4] *Congressional Globe*, 37th Cong., 1st sess., 1861, 162 (statement of Senator Wilson).

[5] Four rations per day at 30¢ per ration, 30 days per month.

Army counterpart. A Navy officer retired for a disability that did not result from military service was entitled to "furlough" pay—that is, to one-half the leave-of-absence pay of the officer's grade, or the officer could be "wholly retired" with one year's pay and allowances.

The Army's ability to make full use of the disability-retirement system was hampered by a provision of the Act of August 3, 1861, ch. 42, §16, 12 Stat. 289, that limited the number of officers on its retired list to 7 percent of those on active duty. No limit was ever placed on Navy or Marine Corps retired lists. The 7-percent limit was changed to a numerical ceiling of 300 by the Act of July 15, 1870, ch. 294, §5, 16 Stat. 315, 317 (1870), and raised to 400 by the Act of June 18, 1878, ch. 263, §7, 20 Stat. 145, 150 (1878). The Act of March 3, 1883, ch. 93, §1, 22 Stat. 456 (1883), divided the Army retired list into "unlimited" and "limited" categories. But only those retired because they had reached the mandatory retirement age of 64 could be assigned to the unlimited list. Disability retirees, along with those retiring voluntarily, had to go on the limited list and remained subject to a ceiling of 400. The Act of February 16, 1891, ch. 238, 20 Stat. 763 (1891), reduced the limited-list ceiling to 350 but permitted the transfer of disability retirees from the limited to the unlimited list when they reached age 64. The retired-list ceiling continued to restrict disability retirements until, under the crushing weight of World War I casualties, the Act of September 17, 1919, ch. 61, Pub. L. No. 66-49, 41 Stat. 286, 286–87 (1919), allowed the placement of disability retirees on the unlimited retired list.

The Act of March 2, 1867, ch. 174, §6, 14 Stat. 515, 516 (1867), was the first law to authorize disability retirement for enlisted personnel. It provided that a disabled enlisted member of the Navy or Marine Corps with at least 20 years of service could be paid one-half of active-duty pay "in lieu of being provided with a home in the naval asylum." Those with at least 10 years of honorable service were eligible for a pension in "a suitable amount for his relief, and for a specified time" at the discretion of the Secretary of the Navy.[6]

The Appropriation Acts of 1871 for the Army and Navy (Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870), and Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §3, 16 Stat. 321, 330–32 (1870)) created an active-duty salary system for officers and did away with commutations for rations. Since the existing retired-pay formula was based in part on commuted rations, it had to be changed also. Disability retired pay was fixed as 75 percent of base and longevity pay for Army and Marine Corps[7] officers [see Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870)], and as 50 percent of sea duty pay for Navy officers [see Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §5, 16 Stat. 321, 333 (1870)]. The Act of March 13, 1873, ch. 230, §1, 7 Stat. 547 (1873), raised retired pay for Navy officers to 75 percent of sea duty pay.

The next substantive change in disability retirement occurred in the Act of June 4, 1920, ch. 228, Pub. L. No. 66-243, §2, 41 Stat. 812, 834 (1920), which made officers of the naval reserve eligible for disability retirement on the same basis as regular officers. This provision, though it was repealed the following year, embodied a new principle. Until then, disabled non-regular officers had been compensated through the veterans' pension system rather than the military retirement system. Paradoxically, the Act of June 4, 1920 (National Defense Act Amendments of 1920), ch. 227, Pub. L. No. 66-242, §32, 41 Stat. 759, 778 (1920), enacted the same day as the Navy Act, provided for the integration of non-regular World War I officers into the regular Army but expressly specified that, if they became disabled, officers so appointed would be eligible only for a pension and not for disability retirement or retired pay. The Act of May 19, 1926, ch. 333, Pub. L. No. 69-246, 44 Stat. 564 (1926), amended the Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, 39 Stat. 166 (1916), to eliminate this difference in treatment, with the result that non-regular officers who had been integrated into the regular Army became entitled to the same military disability retirement benefits as regular officers.

The short-lived Navy Act of 1920 (Act of June 4, 1920, ch. 228, Pub. L. No. 66-243, §2, 41 Stat. 812, 834 (1920), *supra*) had been a tentative step in the direction of placing non-regular officers under the military

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[6] This 10-year pension authority for disabled enlisted members of the Navy and Marine Corps survives in current law. See 10 U.S.C. §6160.

[7] Although the Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, 16 Stat. 315 (1870), dealt only with the Army, Marine Corps officers received the same treatment as Army officers by virtue of a special linkage provision.

disability-retirement system. The Act of May 24, 1928 (Emergency Officers' Retirement Act of 1928), ch. 735, Pub. L. No. 70-506, §1, 45 Stat. 735 (1928), took another step in the same direction. It required the establishment of an "emergency officers' retired list" in the Army, Navy, and Marine Corps composed of officers disabled during World War I, defined under the act as the period from April 6, 1917, to July 2, 1921. [See Emergency Officers' Retirement Act of 1928, ch. 735, *id*., §2, 45 Stat. 736.] Officers placed on the list with a disability rating of 30 percent or more were entitled to "retirement" pay of 75 percent of their terminal active-duty base and longevity pay. The "emergency officers' retired list" program was a mixture of military retirement and veterans' pension systems. The military services had to make disability determinations and place officers on the emergency retired list. Moreover, the "retirement" pay of such officers was the same as the "retired" pay of corresponding regular officers, rather than the disability rate fixed under the pension system. On the other hand, once an officer had been placed on the list, the officer was certified to the Veterans Bureau[8] and paid from funds appropriated for that agency. Furthermore, an officer on the emergency officers' retired list did not hold a "retired status"—that is, the officer was not subject to recall nor eligible for such benefits as medical care or commissary and exchange privileges. More than half the officers on the list lost their eligibility and were removed as a result of depression measures, particularly the Act of March 20, 1933, ch. 3, Pub. L. No. 73-2, §10, 48 Stat. 9, 10 (1933),[9] which designated November 11, 1918, in place of July 2, 1921, as the end of the World War I eligibility period.

The Emergency Officers' Retirement Act of 1928, ch. 735, *id*., covered only a specific class of non-regular officers, those disabled in World War I. Other disabled non-regular officers remained wholly under the veterans' pension system until a state of national emergency was declared and a buildup of military forces was begun preceding the entry of the United States into World War II. The Act of April 3, 1939, ch. 35, Pub. L. No. 76-18, §5, 53 Stat. 555, 557 (1939), provided that the same disability benefits as were available to members of the regular Army would be available to non-regular members. Executive Order No. 8099 of April 28, 1939, assigned responsibility for the administration and payment of such benefits to the Veterans Administration.[10] Accordingly, non-regular officers who were retired for disability under the 1939 act were not placed on the Army retired list nor given a "retired status"; rather, they were handled exactly like "emergency" officers. This procedure continued until the enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949).

The Naval Aviation Personnel Act of 1940, ch. 694, Pub. L. No. 76-775, §4, 54 Stat. 864 (1940), entitled disabled non-regular Navy and Marine Corps officers to the same disability benefits provided for regular officers. Despite the similarity of this provision to that of the Act of April 3, 1939, ch. 35, Pub. L. No. 76-18, §5, 53 Stat. 555, 557 (1939), for non-regular members of the Army, no executive order was issued assigning responsibility for it to the Veterans Administration, as had been the case with the Army provision. Hence, disabled reserve officers of the Navy and Marine Corps were retired and placed on the retired list in the same manner as regular officers. They had the status of retired officers, remained subject to recall to active duty, and were paid from Navy and Marine Corps appropriations.

The Act of June 30, 1941, ch. 263, Pub. L. No. 77-140, §2, 55 Stat. 394 (1941), was the first legislation to extend disability retirement to Army enlisted personnel. The Act of June 30, 1941, ch. 263, *id*., §3, 55 Stat.

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[8] The predecessor organization of the Veterans Administration, now the Department of Veterans Affairs. See footnote 10 to this chapter, below.

[9] Although untitled, the Act of March 20, 1933, ch. 3, Pub. L. No. 73-2, 48 Stat. 9 (1933), carried the catchline, "An Act to Maintain the Credit of the United States."

[10] The Veterans Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, 102 Stat. 2635 (1988). Pursuant to that act, from and after March 15, 1989, all references in any federal law, executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. Department of Veterans Affairs Act, Pub. L. No. 100-527, §10, 102 Stat. 2640–2641; also see 38 U.S.C. §201 note. (Some references to the "Veterans Administration," the "VA," and the "Veterans Bureau" have been retained in the present chapter, largely for historical reasons. It should be understood, however, that the federal agency currently charged with authority for administering the laws and regulations formerly administered by the Veterans Administration is the Department of Veterans Affairs.)

394–95, allowed soldiers with 20 or more years of service to be retired for disability, with pay equal to 75 percent of their average monthly pay for the six months immediately prior to retirement. (The six-months' average pay base for computing this form of disability retired pay is worthy of note: as far as can be determined, Army enlisted personnel were the only category of military personnel to whom an average-pay formula was ever applied for the purpose of determining any kind of retired or retainer pay before enactment of the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §813, 94 Stat. 1077, 1100–1110 (1980), which adopted a three-year average of monthly basic pay as the "monthly retired or retainer pay base" used in making computations of entitlements to retired or retainer pay for individual service members.)[11]

The 1941 law was the last significant modification to the disability-retirement system before its 1949 revision. At this point, the compensation authorized for disabled military personnel had evolved into the systems set out below:

Categories of Personnel	Army and Air Force	Navy and Marine Corps
Regular Officers	Military Disability Retired Pay—75% of Base and Longevity Pay	Military Disability Retired Pay—75% of Base and Longevity Pay
Non-Regular Officers	Veterans Administration "Retirement" Pay—75% of 6 months' Average Base and Longevity Pay	Same as Regular Officers
Enlisted Personnel, 20 or more years of service	Military Disability Retired Pay—75% of 6 months' Average Base and Longevity Pay	Military Disability Retired Pay—50% of Base and Longevity Pay
Enlisted Personnel, less than 20 years of service	Veterans Administration Disability Compensation based on degree of disability	Veterans Administration Disability Compensation based on degree of disability

Note: Any member entitled to military retired pay could waive all or part of such pay and elect in its place any VA disability compensation based on the degree of disability to which the member was entitled.

Allegations of unfairness, inequity, and inefficiency in the existing disability retirement system became so extensive following World War II that a special subcommittee of the House Armed Services Committee, chaired by Representative Elston of Ohio, was impaneled to investigate them.[12] The principal complaints against the system were:

(1) the award of wholly tax-exempt retired pay of 75 percent of active-duty pay to any officer retired for disability, regardless of its severity, was unduly generous and costly;

(2) the system, especially the Army "emergency officer" procedure, discriminated against non-regular officers as compared with regulars;

(3) the system discriminated against enlisted personnel as compared with officers; and

[11] See discussion of "military retired pay base" and "military retainer pay base" in Chapter III.B.1., "Nondisability Retired and Retainer Pay," above.

[12] *Investigation of Disability Retirement Systems in the Armed Services: Hearings before the Legal Subcommittee of the House Armed Services Committee Pursuant to H. Res. 141 and H. Res. 447*, 80th Cong., 2d sess. (1948).

(4) the fact that retirement authority was limited to permanent disability tended to burden the active list with personnel retained solely for medical observation and evaluation of the permanency of a disability.

The recommendations of the Elston Committee and the Advisory Commission on Service Pay (the so-called Hook Commission), which met at about the same time, led to the revised disability-retirement system adopted under the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §402, 63 Stat. 802, 816–20 (1949), in which most of the criticized features of the previous system were changed. Under the new system, all disabilities had to be rated under the standard schedule of rating disabilities in use by the Veterans Administration, and the resultant ratings became a factor in the determination of actual disability retired-pay entitlements and their taxability. The new system covered officer and enlisted personnel of both the regular and reserve components, and it authorized temporary as well as permanent disability retirements. The disability retirement system in effect today remains basically unchanged from that adopted in 1949.[13]

The present system provides that a member with at least eight years of service who is unfit to perform the duties of his or her office or grade because of a permanent disability that is stable in degree may be retired (1) if the disability is not the result of intentional misconduct or willful neglect and was not incurred during a period of unauthorized absence and (2) the disability is rated at 30 percent or more or the member has at least 20 years of service. For personnel with less than eight years of service, the disability retired-pay eligibility criteria appear to be somewhat more complex but in fact are not. For such personnel, the law provides that, to be eligible for disability retired pay, their disability must have been either (i) "the proximate result of performing active duty," (ii) "incurred in line of duty in time of war or national emergency," or (iii) "incurred in line of duty after September 14, 1978." Since "a state of national emergency" existed from 1950 until September 14, 1978, when all such "states of national emergency" were "terminated" pursuant to the National Emergencies Act, Pub. L. No. 94-412, §101, 90 Stat. 1255 (1976), the only effective requirements prior to September 15, 1978, for military personnel with less than eight years of service—in addition to the permanency of disability and non-misconduct/non-negligence requirements—were that the disability must have been either the "proximate result of performing active duty" or have been "incurred in line of duty." For disabilities incurred after September 14, 1978, the law itself, as amended by the Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, §117, 94 Stat. 2835, 2878 (1980), provides that, to come within the provisions for disability retired pay, the disability need only have been "incurred in line of duty."[14] [See generally, 10 U.S.C. §1201.] Thus, the system at present operates,

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[13] Among the few changes made to the military disability retirement system since 1949 is a change that affects mainly members of the reserve components of the armed forces. Before enactment of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §604(d), 100 Stat. 3816, 3876 (1986), members of the armed forces on active duty for 30 days or less—primarily members of reserve components of the armed forces—were entitled to disability retired-pay benefits only for disabilities resulting from injuries. The 1987 Authorization Act eliminated the requirement that members on active duty for 30 days or less have been disabled by injury as a condition of entitlement to disability retired pay, so that affected persons disabled by illness or disease are now entitled to disability retired pay as well as persons disabled by injury. As explained by Congress, this action was taken in furtherance of efforts begun with the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §924, 97 Stat. 614, 644 (1983), "to remove the statutory distinctions between members of the active and reserve components who are disabled or killed as a result of injury, illness, or disease in the performance of their military duties or while traveling to or from those military duties." H.R. Rep. No. 99-718 (Committee on Armed Services), at 203, accompanying H.R. 4428, 99th Cong., 2d sess. (1986). *Cf.* S. Rep. No. 99-331 (Committee on Armed Services), at 239–40, and H.R. Rep. No. 99-1001 (Committee of Conference), at 477, accompanying S. 2638, 99th Cong., 2d sess. (1986).

[14] In taking into account the National Emergencies Act, Pub. L. No. 94-412, §101, 90 Stat. 1255 (1976), Congress originally provided, in the Act of September 19, 1978, Pub. L. No. 95-377, §3, 92 Stat. 719 (1978), that so as long as a member with less than eight years of service incurred a disability in the line of duty between September 15, 1978, and September 30, 1979, the member would be eligible for disability retired pay. Shortly before the expiration of this period, the Department of Defense recommended that such authority be made permanent for personnel with less than eight years of service, in order not to "worsen ... the competitive position of the armed forces in attracting and retaining the numbers and quality of members essential to the proper functioning of the forces" in the context of an "All Volunteer" service. See Departmental recommendation, as printed in S. Rep. No. 96-424 (Committee on Armed Services), at 7, accompanying H.R. 5168, 96th Cong., 1st sess. (1979). In response to this recommendation, Congress, on September 8, 1980, in the Military Personnel and

and has since 1950, in exactly the same manner for members with eight or more years of service as it does for those with less service.

As to the amount of disability retired pay to which a disabled member may become entitled, a person who first became a member of a uniformed service on or before September 7, 1980, who is permanently retired for disability is entitled, at his or her election, to retired pay computed by multiplying the member's terminal monthly basic pay by either the member's percentage of disability or by 2.5 percent of the number of years of the member's service, up to a 75-percent ceiling, whereas the retired pay of a person who first became a member after that date is determined by the use of the member's "retired pay base" or "retainer pay base," as defined in 10 U.S.C. §1407(b), in place of terminal monthly basic pay. [See 10 U.S.C. §1401(a) (Formula No. 1 (relating to the computation of disability retired pay entitlements)).][15]

For persons who were members of the armed forces on September 24, 1975, or who were receiving disability retired pay on or before that date, or who at any time thereafter receive such pay because of a combat-related injury (including conditions simulating combat), or who would be entitled to receive disability compensation from the Department of Veterans Affairs upon application for such pay, retired pay computed on the basis of percentage of disability is wholly exempt from federal income taxation. [See Section 104(a)(4) and (b) of the Internal Revenue code of 1986, 26 U.S.C. §104(a)(4) and (b), and Section 1.104-1(e)(1) of the Internal Revenue Service's Income Tax Regulations adopted thereunder, 26 C.F.R. §1.104-1(e)(1).] Disability retired pay computed on the basis of years of service for such a person is, however, subject to federal income taxation to the extent that it exceeds the pay such person would have received had pay been computed only on the basis of percentage of disability. [See, e.g., Section 104(a)(4) of the Internal Revenue Code of 1986, 26 U.S.C. §104(a)(4), and Sections 1.104-1(e)(1) and 1.105-4(a)(3)(i)(A) of the Income Tax Regulations thereunder, 26 C.F.R. §§1.104-1(e)(1) and 1.105-4(a)(3)(i)(A).] For persons not covered by the previously specified eligibility criteria—that is, primarily persons who became members of the armed forces after September 24, 1975, and who do not receive disability retired pay because of a combat-related injury or who are not eligible for disability compensation administered by the Department of Veterans Affairs—amounts received as disability retired pay are, under amendments to the Internal Revenue Code of 1954 made by the Tax Reform Act of 1976, Pub. L. No. 94-455, §505(b), 90 Stat. 1520, 1567 (1976), fully subject to federal income taxation. See Section 104(b) of the Internal Revenue Code of 1986, 26 U.S.C. §104(b), for a fuller explication of the applicable rules for excluding disability

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Compensation Amendments of 1980, Pub. L. No. 96-343, §10(c), 94 Stat. 1123, 1129 (1980), extended the authority to September 30, 1982, conditioned on the promulgation of an executive order making such extension effective. Thus, despite the lapse of the authority on September 30, 1979, military personnel disabled in line of duty any time after September 15, 1978, and before October 1, 1982, were, under the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, *id.*, entitled to disability retired pay if otherwise eligible therefor. In the Defense Officer Personnel Management Act, Pub. L. No. 96-513, §117, 94 Stat. 2835, 2878 (1980), adopted December 12, 1980, Congress made the authority permanent by extending disability retired pay authority to members whose disability was incurred in line of duty at any time after September 14, 1978.

[15] Abstracting from some minor complicating factors, a member's "retired" or "retainer pay base" equals average basic pay for the 36-month period the member earned the highest rate of monthly basic pay. See discussion of "military retired pay base" and "military retainer pay base" in Chapter III.B.1., "Nondisability Retired and Retainer Pay," above, for a fuller explanation of the niceties of "retired" and "retainer pay bases."

retired pay from income subject to taxation.[16] [17] A disabled member with less than 30-percent disability and less than 20 years of service is entitled to disability severance pay, instead of disability retired pay, with the entitlement computed as the product of two months' basic pay and the member's years of service, up to a maximum of 12 years. [See 10 U.S.C. §§1203 and 1212.][18]

A member whose qualification for permanent disability retirement is prevented only because the degree of disability cannot be positively determined can, if accepted medical principles indicate that the disability may be permanent, be placed on the temporary disability retired list (TDRL) pursuant to the provisions of 10 U.S.C. §1202.[19] A member on TDRL has the same retired-pay entitlement as a member permanently retired for disability, except that there is a 50-percent floor as well as a 75-percent ceiling on temporary disability retired pay. A member on the TDRL must be physically examined at least once every 18 months to determine whether there has been a change in disability and whether the disability is permanent in nature. A final determination on permanency must be made within five years of the member's placement on TDRL. If a periodic or final physical examination shows that a member's disability is permanent and stable and is rated as 30 percent or more, or if the member has at least 20 years of service,[20] the member is permanently retired in a disability status. If it is determined that the member's

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[16] That is, before 1975, all Department of Defense disability retired pay was tax-exempt, and the same was true for Veterans Administration disability compensation. In 1975, because of what was perceived as abuses of the tax-exemption provisions relating to military disability retired pay—including allegations that retirees were regularly determined to have some form of disability whether in fact they had any disability or not—the Department of Defense rule was changed so that only the percentage of disability retired pay that is attributable to "combat-related injuries" (defined to include injuries or sickness caused by an "instrumentality of war" and incurred (i) as a direct result of armed conflict, or (ii) while engaged in "extrahazardous" service, or (iii) under conditions simulating war) or that a member could have obtained as disability compensation from the Department of Veterans Affairs is exempt from taxation. Disability compensation awarded by the Department of Veterans Affairs remains wholly tax-exempt. (In a related vein, once the Department of Defense determines the percentage of disability for purposes of disability retired pay, that percentage is fixed forever. As far as disability compensation administered by the Department of Veterans Affairs is concerned, however, the percentage of disability determination is not final but may be changed as a veteran's physical condition either improves or deteriorates over time.)

[17] See, e.g., H.R. Rep. No. 94-658 (Committee on Ways and Means), at 152–53, and S. Rep. No. 94-938 (Committee on Finance), at 138–40, accompanying H.R. 10612, 94th Cong., 2d sess. (1976).

[18] For a more complete discussion of disability severance pay, see Chapter III.C.2., "Disability Severance Pay," below.

[19] Before 1985, a member who had a disability that was determined to be permanent even though the degree of disability could not be determined because it was not stable in nature was nevertheless required to be placed on permanent disability retired status. The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §513, 99 Stat. 583, 627–28 (1985), changed this result to "permit a permanently disabled service member to be placed on the temporary disability retired list if the disability, though permanent in character, were not stable in degree." See H.R. Rep. No. 99- 81 (Committee on Armed Services), at 211, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). As explained in the House report, "[l]iterally construed, current law would not permit the same result." *id*. (The 1986 Authorization Act also changed preexisting law to "permit retirement or separation of a service member directly from the temporary disability retired list without the administrative fiction—required by current law—of reappointment or reenlistment on active duty" before retirement or separation. *id*.) Also see H.R. Rep. No. 99-235 (Committee of Conference), at 422, and S. Rep. No. 99-118 (Committee of Conference), at 422, accompanying S. 1160, 99th Cong., 1st sess. (1985). See 10 U.S.C. §1202 concerning the "temporary disability retired list."

[20] Section 1201(3) of Title 10, United States Code, 10 U.S.C. §1201(3), specifically requires that a member have either 20 years of service or a disability rating of at least 30 percent to be eligible for disability retired pay. The 20-year requirement would appear to rule out the possibility that members of the armed forces with at least 15 but less than 20 years of service who have a disability rating of less than 30 percent may be eligible for disability retirement pursuant to the provisions of Section 4403 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992), as amended by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §561(a), 107 Stat. 1547, 1667 (1993), set out as a note under 10 U.S.C. §1293, which provides temporary early retirement authority during the "active force drawdown period," i.e., October 23, 1992, to October 1, 1999, for members of the armed forces with at least 15 but less than 20 years of service. As a practical matter, however, the Secretaries of the military departments would appear to have sufficient discretionary authority under the early retirement program authorized by Section 4403 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–

disability is permanent but is rated as less than 30 percent and the member has less than 20 years of service,[21] the member is removed from TDRL, separated from the service, and given disability severance pay.[22] If it is determined that the member is physically fit to perform his or her duties, the member must be removed from TDRL, with a concomitant cessation of disability retired pay, after which, with his or her consent, the member may be reappointed or reenlisted on the active list or permanently separated without entitlement to either disability, retired, or severance pays.

> Until 2004, under the provisions of 38 U.S.C. §§5304-5305 a member or former member of the armed forces could receive a disability-based pension or compensation from the Department of Veterans Affairs at the same time he received retired or retainer pay based on service as a member of the Armed Forces, only if he filed a "waiver" of that portion of his retired or retainer pay (including disability retired pay) entitlement equal to the amount of pension or compensation to which he was entitled from the Department of Veterans Affairs.[23] The provision of this "offset" effectively banned the concurrent receipt of disability retired pay and veterans compensation for the same disability.

In the late 1990s, the fairness of this limitation on concurrent receipt came under close scrutiny by Congress, and abolition of the limitation gained strong political support. The National Defense Authorization Act for Fiscal Year 2000 added a new section to Chapter 71 of 10 U.S.C., providing for special retirement compensation from the Defense Department to retirees with disabilities rated at 70 percent or higher. The National Defense Authorization Act for 2002 reduced the minimum disability rating of this provision from 70 to 60 percent. Under both laws, compensation was computed on a sliding scale commensurate with the Department of Veterans Affairs scale that awarded higher payments to individuals with greater rates of disability. The National Defense Authorization Act for Fiscal Year 2002 also provided authority for concurrent receipt, but that authority was contingent on passage of legislation that would provide means to offset the additional expenditure that concurrent receipt would entail over the ensuing 10 years. Because no such legislation was forthcoming, the special compensations prescribed in legislation beginning in 2000 left most disabled veterans substantially short of concurrent receipt, for which strong advocacy continued. In 2003 Senator Nelson of Nebraska expressed the rationale for advocacy of full concurrent receipt:

> Military retirement pay and VA [Department of Veterans' Affairs] disability compensation were earned and awarded for different purposes. The military retired pay is awarded for a career of service in the armed services. Disability compensation is awarded to veterans to compensate for a disability incurred in the line of military duty…. Each year for several years legislation has been introduced in both the House and the Senate to repeal this inequitable prohibition.[24]

Despite strong support for this position in Congress and among veterans' groups, the Bush administration opposed the removal of the concurrent receipt restrictions because of the additional expenditures that such a change would entail. President Bush threatened to veto the National Defense Authorization Act for Fiscal Year 2003 if the House–Senate conference adopted the Senate's proposed application of concurrent receipt to virtually all disabled retirees. In a compromise response, the National Defense Authorization Act for Fiscal Year 2003 limited the application of concurrent receipt to a narrower category, the "combat-related disabled uniformed services retiree." Individuals determined to fall into that category (which required at least a 60-percent disability rating) became eligible to receive special compensation from the Defense Department in the amounts stipulated

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2704 (1992), as amended, see Section 4403(d) of the act in particular, to grant regular retirement to members with at least 15 but less than 20 years of service who have a disability rating of less than 30 percent.

[21] But see the last sentence of footnote 20 hereof, above.

[22] See footnote 19, above.

[23] See footnote 16, above, as well as the text of the paragraph to which it is appended.

[24] U.S. Senate, Committee on Armed Services, Subcommittee on Personnel, *Hearing to Receive Testimony on Compensation for Disabled Military Retirees in Review of the Defense Authorization Request for Fiscal Year 2004*, March 27, 2003, 108th Cong., 1st sess. (2003).

as disabled veterans' benefits in Chapter 11 of U.S.C. 38. This provision would normally mean restitution of the entire "waived" portion of the individual's retirement entitlement, which the legislation in fact stipulates as the maximum amount that can be received as special compensation (combat-related special compensation, or CRSC) by the combat-related disabled uniform services retiree.

The National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1392 (2003), extended the scope of concurrent receipt in both eligibility and benefits. Section 641 of that legislation provided for all disabled retirees with disability ratings of 50 percent or more to have their offsets (the amount subtracted from military retirement because of disability benefits) reduced gradually between 2004 and 2013, reaching zero at the end date. Purple Heart recipients became eligible immediately for full military retirement and disability benefits. Section 642 of the 2004 Authorization Act also extended to all retirees with combat-related disabilities the combat-related special compensation for which retirees with more than 60-percent combat-related disability had become eligible in 2003. That legislation also clarified eligibility between the two most recent programs: individuals receiving compensation based on combat-related disabilities are ineligible for the 10-year gradual reduction of offsets, and individuals receiving reduced offsets are ineligible for combat-related disability compensation.

The following table shows the amounts of additional monthly compensation to be received by disability retirees in 2004, the starting point of phased-in concurrent receipt for retirees with 50-percent or greater disability. In each of the succeeding years through 2013, the amount of the monthly offset will decrease (hence, monthly retirement compensation will increase) by an additional 10 percent of the difference between the previous year's monthly offset decrease and the individual's original monthly offset amount. For example, a retiree with 50-percent disability, nominal retirement eligibility of $2,000, and an offset of $1,000 would receive $100 of additional retired pay per month in 2004 by virtue of the $100 offset reduction stipulated for individuals in the 50-percent category. Thus the individual's total monthly retirement payment would increase from $1,000 to $1,100. In 2005 that amount would increase by $90, which is 10 percent of $900 (the difference between the total offset monthly amount, $1,000, and the previous year's monthly offset decrease, $100), reducing the pre-2004 monthly offset amount by $190 and yielding a total retirement payment of $1,190. In 2006 the monthly payment would increase by 20 percent of the difference between $1,000 and $190, or $162, reducing the original monthly offset by $190 plus $162, or $352, and yielding a monthly retirement payment of $1,352. In 2007 the $352 figure would increase by 30 percent of the difference between $1,000 and $352, and so on. In the final year, 2014, the monthly payment would increase by 100 percent of the difference between $1,000 and the monthly payment for 2012, bringing the individual to full concurrent receipt on December 31, 2013.

Disability Rating	**50%**	**60%**	**70%**	**80%**	**90%**	**100%**
2004 additional monthly retirement payment*	$100	$125	$250	$350	$500	$750

* i.e., reduction of monthly offset; note that the 100% category was eliminated by 2005 legislation.

The National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004), repealed the phase-in of concurrent receipt of retired pay and veterans' disability compensation for military retirees with service-connected disabilities rated as 100 percent, making individuals in that category immediately eligible for full, concurrent retired and disability compensation.

The National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 3 (2008), included changes to Chapter 61 retiree eligibility for combat-related special compensation (CRSC). Section 641 expanded CRSC eligibility to medical retirees with less than 20 years of service, effective January 1, 2008.

Medically retired veterans must still provide documentation that shows a causal link between a current VA disability and a combat-related event.[25]

The National Defense Authorization Act for Fiscal Year 2008 also required the Secretary, in making disability determinations, to utilize (without deviating from) the schedule for rating disabilities in use by the VA. The Secretary is authorized to utilize criteria other than the VA schedule if this will result in a determination of a greater percentage of disability than in the use of the schedule. [26]

The National Defense Authorization Act for Fiscal Year 2008 authorized the retirement or separation for disability of members, under provisions applicable to members on active duty for more than 30 days, if the member has six months or more of active service and the disability was not noted at the time of the member's entrance into active duty, unless medical evidence or judgment warrants a finding that the disability existed before the member's entrance on active duty.[27]

The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 required, with respect to eligibility for retirement due to disability, a presumption that a disability was incurred on active duty unless there is clear and unmistakable evidence that the disability existed before entering into active duty and was not aggravated by active service.[28]

Summary: The more significant statutes relating to disability retirement and retired pay are displayed in summarized form below.

SUMMARY OF SIGNIFICANT STATUTES RELATING TO DISABILITY RETIREMENT AND RETIRED PAY

Enactment	Action
Act of February 28, 1855, ch. 127, 10 Stat. 616 (1855)	Authorized involuntary removal of Navy officers from active list for disability and other reasons.
Act of August 3, 1861, ch. 42, 12 Stat. 287 (1861)	Established system of disability retirement for regular officers of all services.
Act of March 2, 1867, ch. 174, 14 Stat. 515, 516 (1867)	Established system of disability retirement for Navy and Marine Corps enlisted personnel with 20 or more years of service.
Act of July 15, 1870, ch. 294, 16 Stat. 315 (1870)	Fixed disability retired pay for Army and Marine Corps officers at 75 percent of active-duty pay, a formula that continued until 1949.
Act of March 3, 1873, ch. 230, 17 Stat. 547 (1873)	Made 75-percent disability retired-pay formula applicable to Navy officers.
Act of June 4, 1920, ch. 228, Pub. L. No. 66-243, 41 Stat. 812, 834 (1920)	Temporarily made officers of naval reserve eligible for disability retirement on same basis as regular officers.

[25] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Subtitle D, Sec. 641, 122 Stat. 3, 156 (2008).
[26] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title XVI, Subtitle D, Sec. 1642, 122 Stat. 3, 465 (2008).
[27] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title XVI, Subtitle D, Sec. 1641, 122 Stat. 3, 464 (2008).
[28] Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, Title VII, Subtitle C, Sec. 727, 122 Stat. 4356, 4510 (2008).

Enactment	Action
Act of May 24, 1928, ch. 735, Pub. L. No. 70-506, 45 Stat. 735 (1928)	Created "emergency officers' retired list"; made non-regular officers of all services disabled during World War I eligible for "retirement" pay from VA. "Retirement" pay equivalent of "retired" pay of corresponding regular officers.
Naval Aviation Personnel Act of 1940, ch. 694, Pub. L. No. 76-775, 54 Stat. 864 (1940)	Made non-regular Navy and Marine Corps officers eligible for same disability retirement benefits as regulars. Such non-regulars handled same as regular officers.
Act of June 30, 1941, ch. 263, Pub. L. No. 77-140, 55 Stat. 394 (1941)	Established system of disability retirement for Army enlisted personnel with 20 or more years of service.
Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949)	Revised system of disability retirement; applicable equally to officer and enlisted personnel of both regular and reserve components; disabilities rated by degree and resultant ratings factor in entitlement to retired pay and taxability; temporary as well as permanent disabilities provided for.
National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 644 (1999)	Initiated special compensation for members rated at higher than 70-percent disability.
National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1128 (2001)	Provided for authority for concurrent receipt of military retired pay and veterans' disability compensation, contingent on enactment of legislation to offset expenditures; reduced minimum disability rating to 60 percent for receipt of special compensation for severely disabled retirees.
National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2458 (2002)	Provided for concurrent receipt of military retired pay and veterans' disability for veterans categorized as combat-related disabled uniformed services retirees, if their disability rating was 60 percent or higher.
National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1392 (2003)	Provided for phase-in over a 10-year period (through 2013) of full concurrent receipt of military retired pay and veterans' disability compensation for military retirees with greater than 50-percent disability. Extended eligibility for combat-related disability special compensation to all retirees with combat-related disabilities, regardless of disability rating.
National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004)	Repealed the phase-in of concurrent receipt of retired pay and veterans' disability compensation for military retirees with service-connected disabilities rated as 100 percent, making individuals in that category immediately eligible for full, concurrent retired and disability compensation.
National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 3 (2008)	Expanded eligibility for combat-related special compensation (CRSC) to medical retirees with less than 20 years of service, subject to documentation of link between disability and combat.

Cost: For the cost of disability retired pay from 1972 to 2015, see tables III-4A–C, below.

Table III-4A. Permanent Disability Retired Pay, 1972–2015

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	77,664	431,573	71,594	109,583	806,070	321,990
1972	131,499	557,495	60,618	371,746	70,881	185,749
1973	138,113	616,664	61,728	403,260	76,385	213,404
1974	142,317	680,011	61,920	437,880	80,397	242,131
1975	144,791	771,062	61,744	493,029	83,047	278,033
1976	149,294	1,093,948	61,614	690,792	87,680	403,156
1977	141,090	906,413	59,256	571,641	81,834	334,772
1978	140,357	963,377	58,173	605,231	82,184	358,146
1979	139,701	1,031,515	57,037	643,799	82,664	387,716
1980	139,004	1,137,327	55,856	707,517	83,148	429,810
1981	136,803	1,248,888	54,487	773,873	82,316	475,015
1982	134,278	1,303,179	52,583	806,065	81,695	497,114
1983	131,920	1,330,920	51,128	821,228	80,792	509,692
1984	130,367	1,326,967	49,739	813,473	80,628	513,495
1985	129,444	1,334,734	48,440	812,900	81,004	521,834
1986	127,970	1,312,608	47,204	795,297	80,766	517,311
1987	126,313	1,295,707	45,879	780,559	80,434	515,147
1988	124,839	1,312,189	44,592	785,046	80,247	527,143
1989	124,014	1,335,162	43,396	792,368	80,618	542,794
1990	122,744	1,373,022	42,205	809,259	80,539	563,763
1991	121,836	1,422,291	41,026	830,193	80,810	592,097
1992	120,348	1,442,129	39,819	834,609	80,529	607,521
1993	118,145	1,443,120	38,514	826,951	79,631	616,169
1994	115,543	1,435,714	37,181	821,059	78,362	614,654
1995	112,836	1,421,749	35,787	806,320	77,049	615,428
1996	110,488	1,382,892	34,312	777,750	76,176	605,142
1997	107,475	1,365,676	32,953	763,389	74,522	602,287
1998	104,028	1,332,840	31,472	740,347	72,556	592,492
1999	99,540	1,282,768	29,872	709,191	69,668	573,577
2000	96,275	1,247,170	28,392	683,537	67,883	563,633
2001	92,707	1,223,229	26,866	663,778	65,841	559,451
2002	88,481	1,172,357	25,275	631,457	63,206	540,900
2003	84,072	1,107,807	23,846	594,862	60,226	512,945
2004	86,747	1,174,619	22,747	590,384	64,000	584,234
2005	83,417	1,171,837	21,421	555,969	61,996	615,868
2006	80,578	1,170,853	20,285	553,091	60,293	617,762
2007	78,105	1,176,811	19,227	540,163	58,878	636,648
2008	77,536	1,192,116	18,441	536,043	59,095	656,073
2009	80,803	1,275,044	17,905	567,878	62,898	702,166
2010	81,710	1,259,234	17,289	541,505	64,421	717,729
2011	83,668	1,243,456	16,832	515,349	66,836	728,107
2012	85,148	1,267,073	16,507	508,223	68,641	758,850
2013	89,972	1,296,438	16,396	499,562	73,576	796,876

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2014	94,943	1,326,819	16,690	496,339	78,253	830,480
2015	103,284	1,405,730	17,568	509,949	85,716	895,781

Note: "Combat Related Special Compensation" (CRSC) as well as "Concurrent Receipt Disability Payments" (CRDP) payments are factored into retired pay since FY2004.

Source: Department of Defense, Office of the Actuary, *Statistical Reports of the Military Retirement System: Fiscal Years 2009-2015*.

Table III-4B. Temporary Disability Retired Pay, 1972–2015

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	22,430	73,632	3,389	29,097	19,041	44,535
1973	19,463	73,779	3,106	29,352	16,357	44,427
1974	17,067	74,750	2,766	29,237	14,301	45,513
1975	14,795	71,382	2,074	24,936	12,721	46,446
1976	11,886	93,994	1,262	26,539	10,624	67,455
1977	12,544	60,915	1,238	16,295	11,306	44,620
1978	12,428	61,860	1,185	16,048	11,243	45,812
1979	11,736	59,601	1,096	15,694	10,640	43,907
1980	10,237	59,144	1,034	15,834	9,203	43,310
1981	9,520	55,708	935	15,160	8,585	40,548
1982	7,827	53,335	862	15,118	6,965	38,217
1983	8,088	51,367	887	14,281	7,201	37,086
1984	8,367	54,783	980	15,320	7,387	39,463
1985	9,408	61,067	1,112	17,725	8,296	43,342
1986	10,653	68,558	1,177	19,748	9,476	48,810
1987	11,515	75,867	1,246	20,485	10,269	56,863
1988	12,297	85,988	1,325	22,955	10,972	63,032
1989	11,948	90,871	1,304	23,365	10,644	67,506
1990	11,393	91,561	1,321	24,360	10,072	67,201
1991	10,088	90,888	1,128	23,809	8,960	67,078
1992	9,487	75,678	1,080	20,523	8,407	55,155
1993	8,981	74,900	1,059	20,129	7,922	54,771
1994	8,778	73,534	988	20,184	7,790	53,350
1995	9,303	75,342	987	19,499	8,316	55,843
1996	9,800	76,529	1,044	19,571	8,756	56,958
1997	9,011	71,440	929	17,501	8,082	53,939
1998	8,375	65,907	895	16,643	7,480	49,263
1999	7,568	59,206	848	15,641	6,720	43,566
2000	6,160	48,645	714	13,251	5,446	35,394
2001	5,699	47,328	690	12,826	5,009	34,502
2002	5,167	42,113	629	11,546	4,538	30,567
2003	4,783	38,100	559	10,348	4,224	27,752

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2004	5,334	24,377	589	12,103	4,745	12,274
2005	6,094	58,088	653	13,418	5,441	44,671
2006	6,654	67,818	698	15,829	5,956	51,990
2007	7,201	76,563	743	16,936	6,458	59,627
2008	7,966	85,148	739	16,448	7,227	68,700
2009	10,657	102,158	853	18,948	9,804	83,210
2010	10,994	117,092	824	19,706	10,170	97,386
2011	11,218	118,362	798	19,249	10,420	99,113
2012	10,762	116,918	751	18,956	10,011	97,962
2013	13,188	133,144	1,001	22,677	12,187	110,467
2014	12,808	133,133	1,103	27,230	11,705	105,903
2015	8,976	117,496	1,061	27,788	7,915	89,708

Note: FY 1976 figures cover the 15-month period July 1, 1976–September 30, 1977, thus including the transitional quarter deriving from the change in the federal fiscal year.

Source: Department of Defense, Office of the Actuary, *Statistical Reports of the Military Retirement System: Fiscal Years 2009-2015*.

Table III-4C. Total Permanent and Temporary Disability Retired Pay (Both Programs), 1972–2015

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	231,593	1,062,700	135,601	510,426	895,992	552,274
1973	157,576	690,443	64,834	432,612	92,742	257,831
1974	159,384	754,761	64,686	467,117	94,698	287,644
1975	159,586	842,444	63,818	517,965	95,768	324,479
1976	161,180	1,187,942	62,876	717,331	98,304	470,611
1977	153,634	967,328	60,494	587,936	93,140	379,392
1978	152,785	1,025,237	59,358	621,279	93,427	403,958
1979	151,437	1,091,116	58,133	659,493	93,304	431,623
1980	149,241	1,196,471	56,890	723,351	92,351	473,120
1981	146,323	1,304,596	55,422	789,033	90,901	515,563
1982	142,105	1,356,514	53,445	821,183	88,660	535,331
1983	140,008	1,382,287	52,015	835,509	87,993	546,778
1984	138,734	1,381,750	50,719	828,793	88,015	552,958
1985	138,852	1,395,801	49,552	830,625	89,300	565,176
1986	138,623	1,381,166	48,381	815,045	90,242	566,121
1987	137,828	1,371,574	47,125	801,044	90,703	572,010
1988	137,136	1,398,177	45,917	808,001	91,219	590,175
1989	135,962	1,426,033	44,700	815,733	91,262	610,300
1990	134,137	1,464,583	43,526	833,619	90,611	630,964
1991	131,924	1,513,179	42,154	854,002	89,770	659,175
1992	129,835	1,517,807	40,899	855,132	88,936	662,676
1993	127,126	1,518,020	39,573	847,080	87,553	670,940

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1994	124,321	1,509,248	38,169	841,243	86,152	668,004
1995	122,139	1,497,091	36,774	825,819	85,365	671,271
1996	120,288	1,459,421	35,356	797,321	84,932	662,100
1997	116,486	1,437,116	33,882	780,890	82,604	656,226
1998	112,403	1,398,747	32,367	756,990	80,036	641,755
1999	107,108	1,341,974	30,720	724,832	76,388	617,143
2000	102,435	1,295,815	29,106	696,788	73,329	599,027
2001	98,406	1,270,557	27,556	676,604	70,850	593,953
2002	93,648	1,214,470	25,904	643,003	67,744	571,467
2003	88,855	1,145,907	24,405	605,210	64,450	540,697
2004	92,081	1,198,996	23,336	602,487	68,745	596,508
2005	89,511	1,229,925	22,074	569,386	67,437	660,539
2006	87,232	1,238,671	20,983	568,919	66,249	669,752
2007	85,306	1,253,374	19,970	557,099	65,336	696,275
2008	85,502	1,277,263	19,180	552,491	66,322	724,773
2009	91,460	1,377,202	18,758	586,826	72,702	785,376
2010	92,704	1,376,326	18,113	561,211	74,591	815,115
2011	94,886	1,361,818	17,630	534,598	77,256	827,220
2012	95,910	1,383,991	17,258	527,179	78,652	856,812
2013	103,160	1,429,582	17,397	522,239	85,763	907,343
2014	107,751	1,459,952	17,793	523,569	89,958	936,383
2015	112,260	1,523,226	18,629	537,737	93,631	985,489

Note: Concurrent receipt payments were factored into retired pay starting in FY2004 Statistical Report Data.

Source: Department of Defense, Office of the Actuary, *Statistical Reports of the Military Retirement System: Fiscal Years 2009-2015*.

Chapter III.B.4.
Adjustments to Retired and Retainer Pay

Note: Resource constraints led to the decision not to update all of the health sections in this eighth edition of Military Compensation Background Papers. Chapter II.D.I contains relevant health-related information that has not been updated since 2008.

Legislative Authority: 10 U.S.C. §1401a.

Purpose: To provide a mechanism for adjusting the entitlements to retired and retainer pay of members of the uniformed services to offset or compensate for the effects of inflation in order to protect the initial value of that pay and to ensure that persons who make a career of the uniformed services and become entitled to retired or retainer pay do not have the purchasing power of that pay eroded by inflation.

Background: The subject of post-retirement adjustments to retired and retainer pay is an issue with major budgetary implications and has received considerable attention in recent years. The history of such adjustments dates to 1870. The Army and Navy Appropriation Acts for 1871 (Act of July 15, 1870 (Army Appropriation Act of 1871), ch. 294, §24, 16 Stat. 315, 320 (1870), and Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §3, 16 Stat. 321, 330–32 (1870)), enacted nine years after the first military retirement system had been created, included a pay raise for officers on the active list. The acts also provided for an adjustment in the retired pay of officers who were already retired based on the new active-duty rates. [See Army Appropriation Act of 1871, ch. 294, §24, 16 Stat. 315, 320 (1870), and Navy Appropriation Act of 1871, ch. 295, §5, 16 Stat. 321, 333 (1870).] The Navy Act was especially clear in this regard, stating that "the pay of all officers of the navy now on or hereafter placed on the retired list" was to be based on "the highest pay prescribed by this act for officers on the active list whose grade corresponds to the grade held by such retired officers."[1] The adjustment of retired and retainer pay on the basis of new active-duty pay rates became known as "recomputation" of retired pay, inasmuch as retired and retainer pay entitlements of retired members were "recomputed" every time there was an increase in pay rates for members of the active force.

The Act of August 5, 1882 (Navy Appropriation Act of 1883), ch. 391, §1, 22 Stat. 284, 286 (1882), though it made no change in active-duty pay rates, discontinued recomputation for retired Navy officers: "Hereafter there shall be no promotion or increase of pay in the retired list of the Navy but the rank and pay of officers on the retired list shall be the same that they are when such officers shall be retired." This provision was aimed primarily at preventing post-retirement promotions with attendant pay increases, but its language also had the effect of barring recomputation. Army and Marine Corps officers were not affected by the bar, nor were the enlisted personnel of any service, including the Navy.

The Act of March 3, 1899 (Navy and Marine Corps Reorganization Act of 1899), ch. 413, §13, 30 Stat. 1004, 1007 (1899), resulted in an increase in the active-duty pay of Navy officers. The pay of retired Navy officers was not adjusted on the basis of these new rates, however, both because of the bar on recomputation contained in the Navy Appropriation Act of 1883 and because of the express provision that "nothing in this Act shall operate to increase or reduce the pay of any officer now on the retired list of the Navy."

Recomputation was restored to retired Navy officers by the next Navy pay bill, the Act of May 13, 1908 (Navy Appropriation Act of 1909), ch. 165, Pub. L. No. 60-115, 35 Stat. 127, 128 (1908). This act provided that "the pay of all commissioned, warrant and appointed officers, and enlisted men of the Navy now on the retired list shall be based on the pay, herein provided for, of ... officers and enlisted men of corresponding rank and service on the active list."

[1] The Act of July 15, 1870 (Navy Appropriation Act of 1871), ch. 295, §5, 16 Stat. 321, 333 (1870), provided that the actual retired pay of any particular officer was to be computed as "one half" of "the highest pay prescribed by this act for officers on the active list whose grade corresponds to the grade held by such retired officers."

The Act of May 18, 1920, ch 190, Pub. L. No. 66-210, §§1–6, 8, 11, 13, 41 Stat. 601, 601–4 (1920), authorized a temporary increase in the active-duty pay of all personnel "until the close of the fiscal year ending June 30, 1922, unless sooner amended or repealed," while at the same time providing that such "increases ... shall not enter into the computation of the retired pay of officers or enlisted men who may be retired prior to July 1, 1922." [See Act of May 18, 1920, ch. 190, *id*., §13, 41 Stat. 604.] Thus, the act not only barred recomputation on the basis of the new rates for personnel already on the retired list but also prohibited personnel retiring after the effective date of the act but before July 1, 1922, from computing their retired pay on the basis of the higher rates—and this despite the fact that such personnel had actually received the higher rates while on active duty. These prohibitions were presumably due to the stop-gap nature of the 1920 pay legislation, evidenced by a provision calling for the creation of a special committee of Congress to "make an investigation and report recommendations to their respective Houses not later than the first Monday in January, 1922, relative to the readjustment of the pay and allowances of the commissioned and enlisted personnel of the several services." [See Act of May 18, 1920, ch. 190, *id.*, §13, 41 Stat. 604.]

The recommendations of the special congressional committee were reflected in the Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §§1 and 9, 42 Stat. 625, 625–27 (1922), which authorized permanent increases in active-duty pay rates. Enlisted personnel on the retired list were allowed to recompute their retired pay on the basis of the new rates, but officers were expressly prohibited from doing so. [See Joint Service Pay Readjustment Act of 1922, ch. 212, *id*., §1 (commissioned officers) and §9 (warrant officers), 42 Stat. 625–27 and 629–30.] This prohibition was removed by the Act of May 8, 1926 (Pay Equalization Act of 1926), ch. 274, Pub. L. No. 69-204, 44 Stat. 417 (1926), which permitted officers retired before July 1, 1922, to prospectively recompute their retired pay on the basis of the active-duty pay rates that had been prescribed effective that date; such officers were not, however, permitted to retroactively reclaim the benefits of recomputation for the period 1922-1926.

The recomputation principle was followed for both officer and enlisted personnel in each of the active-duty pay raises that occurred between 1922 and 1949. The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §511, 63 Stat. 802, 829–30 (1949), permitted the pay of any retired member to be recomputed under the higher basic pay rates it established, but it also gave personnel retired before October 1, 1949, an option that resulted in an election by many such members, particularly officers retired for disability, to forego recomputation. Officers were entitled to disability retired pay of 75 percent of their active-duty pay until the disability-retirement system was revised by the Career Compensation Act of 1949, ch. 681, *id*. Under the revised system, they were entitled to retired pay computed by multiplying the basic pay of their grade by either their percentage of disability or their years of active service, up to a ceiling of 75 percent. Those retired before October 1, 1949, could choose to have their retired pay recomputed under the "new" pay rates using the revised method of computation, or to continue to receive 75 percent of the "old" rates. Members with a 50-percent disability and 20 years of service, for example, had a choice between 50 percent of the new rates or 75 percent of the old rates. As it worked out, 60 percent of the new rates was as a general rule slightly greater than 75 percent of the old rates. Thus, it took a disability rating of 60 percent or higher or a minimum of 24 years of service to make recomputation advantageous. Many retired members had neither this degree of disability nor length of service; hence, they elected to remain under the pre-October 1949 pay rates and method of computation. Personnel who made such an election were prohibited from having their retired pay recomputed under the subsequent military pay raises of 1952 and 1955, even though recomputation was authorized generally under those pay bills.

The Act of May 20, 1958 (Armed Forces Pay Act of 1958), Pub. L. No. 85-422, 72 Stat. 122 (1958), increased active-duty basic pay rates [see §1(1), 72 Stat. 122], but prohibited recomputation of retired pay on the basis of the new rates [see §3(a), 72 Stat. 128]. It provided for a 6-percent cost-of-living increase in retired pay instead. It is clear from the legislative history of the act that Congress had not at this point made up its mind whether recomputation should be abandoned permanently or whether it should merely be suspended for this particular piece of legislation. The added cost of recomputation played a major part in its prohibition in the 1958 Act. As explained by the House Armed Services Committee:

> A major departure from the Department of Defense proposal lies in the treatment of retired personnel. The Cordiner Group recommended that pay of all retired personnel should be recomputed on the basis of the new pay scales. The Department of Defense proposal, H.R. 9979, recommended that retired personnel should receive no increase in retired pay. The Committee on Armed Services has taken the middle ground. The cost factor involved, approximately $65 million, precluded the adoption of the Cordiner Committee recommendation. On the other hand, the Committee felt strongly that the advance in the cost of living has created conditions of hardship which require some measure of relief. Therefore, H.R. 11470 includes an increase of 6 percent to all personnel retired prior to the effective date of the proposed legislation at a cost of a little over $35 million.[2]

The Chairman of the Senate Armed Services Subcommittee that handled the pay legislation sounded a similar theme when he introduced the bill in the Senate:

> The only reason for changing the present system of including all retired personnel, at whatever increase was applied to the corresponding rank in the active service, was the question of where to put the money so that it would do the most good, and also the question of the future soundness of the retirement program.[3]

The Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §5(g), 77 Stat. 210, 213–14 (1963), replaced the recomputation system in permanent law with a method of retired-pay adjustment based on increases in the cost of living as measured by the Consumer Price Index (CPI). The permanent shift from a recomputation to a cost-of-living method of adjustment was explained in these terms:

> The Committee on Armed Services recognizes the tradition that has attached itself in the past to the method of recomputing retired pay whenever the rates of basic pay for members on active duty are changed. It was not easy in 1958, and it is not easy now, to recommend this break with tradition. Nevertheless, the break with tradition was made in 1958 when recomputation of retired pay based on changes in active duty pay rates was not authorized.
>
> The Committee on Armed Services fully realizes the obligation we have to those now retired who have served their Nation. But the committee also recognizes its obligation to those now serving on active duty and those who will enter on active duty in the future.
>
> The committee cannot disregard the already heavy costs involved in military retirement or the substantial added costs which would result if recomputation were to be retained as a part of the military retirement system.[4]

The adjustment method adopted in the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §5(g), 77 Stat. 210, 213–14 (1963), required a determination in January of each year of the percentage increase in the CPI, as measured by the annual average of that index for the year. If the increase was 3 percent or more, retired pay was to be increased by that percent on the first of April.

Despite the creation of the CPI adjustment mechanism and the formal abandonment of recomputation, the act in fact authorized recomputation for two specific groups of retired personnel. Those retired before June 1, 1958, were permitted to recompute their retired pay on the basis of the active-duty pay rates prescribed in 1958; and those retired between April 1 and October 1, 1963, were allowed to recompute on the basis of the new active-duty pay rates that took effect October 1, 1963.

No retired pay adjustments resulted from the formula adopted in the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §5(g), 77 Stat. 210, 213–14 (1963). The Act of August 21, 1965, Pub. L. No. 89-132, §5, 79 Stat. 545, 547 (1965), changed the adjustment mechanism to require a monthly determination of the percentage

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[2] H.R. Rep. No. 1538 (Committee on Armed Services), at 47, accompanying H.R. 11470, 85th Cong., 2d sess. (1958).
[3] 104 Cong. Rec. 7612 (1958).
[4] H.R. Rep. No. 208 (Committee on Armed Services), at 19, accompanying H.R. 5555, 88th Cong., 1st sess. (1963).

by which the CPI had increased over the base index used for the most recent adjustment of retired pay. When the CPI had increased by at least 3 percent over the base index and held at 3 percent or more for three consecutive months, retired pay was to be increased on the first day of the third month following the consecutive three-month period by the highest percent of the increase plus 1 percent. The 1-percent add-on was incorporated into the adjustment mechanism, starting with the November 1, 1969, cost-of-living increase, by the Act of December 30, 1969, Pub. L. No. 91-179, 83 Stat. 837 (1969), for the purpose of compensating for the loss of purchasing power during the time the CPI was building up to the 3-percent level and before the increase in the cost of living was actually reflected in higher retired pay. The Civil Service Retirement Amendments of 1969, Pub. L. No. 91-93, 83 Stat. 136, 139 (1969), had authorized a similar 1-percent add-on in federal Civil Service annuities, and the add-on had been in effect for the cost-of-living increase that occurred in Civil Service annuities on November 1, 1969. The Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §801(a), 90 Stat. 923, 929 (1976), eliminated the 1-percent add-on to military retired pay, contingent on repeal of the similar 1-percent add-on for Civil Service retirees. The Legislative Branch Appropriation Act, 1977, Pub. L. No. 94-440, §1306(d), 90 Stat. 1439, 1462–1463 (1976), amended the preexisting adjustment mechanism by providing that retired and retainer pay was to be adjusted twice yearly—on March 1 and September 1—by the percentage increase in the index, rounded to the nearest one-tenth of 1 percent, on the preceding January 1 and July 1, respectively. In 1980 Congress, in the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §812, 94 Stat. 1077, 1098–1099 (1980), further amended the adjustment mechanism by deferring the adjustment that would otherwise have taken place in September 1980 and by providing, in effect, that future adjustments should be made only once a year, at the same time Civil Service retirement annuities were adjusted pursuant to 5 U.S.C. § 8340(b), and by the same percentage.

The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §§921 and 922, 97 Stat. 614, 640–42 (1983), made two amendments to the provisions affecting the mechanism for adjusting retired and retainer pay under 10 U.S.C. §1401a. The first of the changes, adopted as Section 921 of the 1984 Authorization Act, Pub. L. No. 98-94, *id*., §921, 97 Stat. 640–41, repealed the so-called "one-year 'look-back'" provision of prior law. Under the one-year "look-back" rule, military retirees were permitted to base their retired or retainer pay either on the pay scale in effect on the date of their retirement or on the immediately preceding pay scale as adjusted for changes in the cost of living pursuant to 10 U.S.C. §1401a, whichever was greater. The 1984 Authorization Act eliminated the latter option—basically because of budgetary concerns.[5] The second change, adopted as Section 922 of the 1984 Authorization Act, Pub. L. No. 98-94, *id*., §922, 97 Stat. 641–42, required that monthly retired or retainer pay, both as initially computed and as subsequently adjusted pursuant to 10 U.S.C. §1401a, be rounded down to the next lower full dollar. At bottom, budgetary concerns were responsible for this change as well. As explained by the Senate Committee on Armed Services:

> The Committee proposal to round down monthly retired [and retainer] pay to the next lower dollar is consistent with the provisions of the Omnibus Reconciliation Acts of 1981 and 1982 which rounded down monthly Social Security benefits and civil service annuities, respectively. Although each [military] retiree would only lose from $.12 to $11.88 per year, the Department of Defense estimates that rounding down would save an estimated $9 million annually through fiscal year 1987.[6]

The Military Retirement Reform Act of 1986, Pub. L. No. 99-348, §§102 and 103, 100 Stat. 682, 683–86 (1986), made further changes to the mechanism by which retired and retainer pay is adjusted to compensate for increases in the general price level. As previously indicated,[7] the basic thrust of the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, *id*., was to create a new, and less expensive, retirement system for

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[5] See, e.g., H.R. Rep. No. 98-352 (Committee of Conference), at 227; S. Rep. No. 99-213 (Committee of Conference), at 227; and S. Rep. No. 98-174 (Committee on Armed Services), at 219–20, accompanying S. 675, 98th Cong., 1st sess. (1983).
[6] S. Rep. No. 98-174 (Committee on Armed Services), at 219, accompanying S. 675, 98th Cong., 1st sess. (1983). Also see H.R. Rep. No. 98-352 (Committee of Conference), at 227, and S. Rep. No. 98-213 (Committee of Conference), at 227, accompanying S. 675, 98th Cong., 1st sess. (1983).
[7] See Chapter III.B.1. hereof, above, "Nondisability Retired and Retainer Pay."

members of the uniformed services who first became members on or after August 1, 1986. To this end, the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, *id*., made two fundamental changes in the retirement system as applied to such members. The first of the changes, discussed in Chapter III.B.1. hereof, above, "Nondisability Retired and Retainer Pay," created new, and lower, percentage multipliers to be applied to affected members' "monthly retired or retainer pay bases" to determine initial entitlements to retired or retainer pay. The second of the changes established a new mechanism for adjusting entitlements of affected members to retired or retainer pay.

Before enactment of the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), all retired members or former members of the uniformed services had their retired or retainer pay adjusted annually at the same time and by the same percentage as Civil Service retired pay to reflect changes in the Consumer Price Index.[8] The mechanism for effecting such adjustments, as previously indicated, sought to protect the full purchasing power of the initial retired or retainer pay of a particular member of a uniformed service by increasing the entitlement, at stated intervals, by the percentage by which the Consumer Price Index had increased since the last adjustment.[9] Under the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, *id*., the linkage with Civil Service retired-pay adjustments is broken for members of the uniformed services who first became members on or after August 1, 1986, and the adjustment mechanism that is to be applied to the retired or retainer pay of such members no longer protects the full purchasing power of their initial entitlements to retired or retainer pay. Rather, the adjustment mechanism for all members of the uniformed services who first became members on or after August 1, 1986, provides that, between the time a member retires and the time the member reaches age 62, the member's retired or retainer pay is to be adjusted, at the same time adjustments are made for pre-August 1, 1986, accessions, by the percentage by which the Consumer Price Index had increased since the last adjustment less one percentage point. Then, when the member reaches age 62, and at the same time as the member's retirement percentage multiplier is increased,[10] a one-time "catch-up" adjustment is made to the Consumer Price Index adjustment mechanism. In short, when a member reaches age 62, two adjustments are made to the member's retired or retainer pay. The first adjustment effectively results in a recomputation of the member's initial retired or retainer pay by application of what for most affected individuals[11] will amount to a new and higher percentage multiplier to be applied to the member's monthly retired or retainer pay base. The second adjustment effectively escalates this recomputed monthly retired or retainer pay base to compensate for the full increase in the Consumer Price Index between the time the member retired and the time the member reached age 62.[12] After these two adjustments to a member's retired or retainer pay are made when the member reaches age 62, future adjustments to the member's retired or retainer pay to compensate for increases in the general price level revert to the CPI-minus-1 formula.

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[8] For purposes of this chapter, references to "members" in connection with the discussion of adjustments to retired or retainer pay should be understood to include former members as well.

[9] This adjustment process was, in practice, slightly more complicated than indicated for members of the uniformed services who had retired since the time the last previous adjustment had been made.

[10] As previously indicated, see Chapter III.B.1., "Nondisability Retired and Retainer Pay." The percentage multiplier applied to a member's monthly retired or retainer pay base to determine the initial entitlement to retired or retainer pay is, under the provisions of the Military Retirement Reform Act of 1986, depressed until the member reaches age 62. When the member reaches age 62, the amount by which the percentage multiplier was depressed under the Retirement Reform Act is restored, so that an affected member then has a percentage multiplier that is the same as that applicable to pre-August 1, 1986, accessions.

[11] The percentage multiplier will in fact be higher for all retirees who first became members of a uniformed service on or after August 1, 1986, except for members who retired with 30 or more years of "creditable service," who are in any event entitled to a percentage multiplier of 75 percent. See Chapter III.B.1., "Nondisability Retired and Retainer Pay." (For this purpose, the term "creditable service" refers to the number of years of service with which a member is credited for determining the member's retired or retainer pay entitlement.)

[12] This second adjustment will result in an increase in the retired or retainer pay of all persons who retired before reaching age 62—even for those individuals who retired before reaching age 62 with 30 or more years of "creditable service."

As explained by Congress:

The uniformed services retirement system has existed essentially unchanged for the last 50 years, and its basic form was established over a century ago. During the past two decades, the uniformed services retirement system has come under increasing scrutiny and attack. By recommending the [current] changes ..., the conferees are attempting to put the issue of structural reform of the uniformed services retirement system to rest for the foreseeable future. The conferees believe that, as a result of these changes, the criticism of the uniformed services retirement system will subside and the concerns of service members regarding the uncertainty of retirement benefits can be assuaged.

The conferees emphasize that the changes to the uniformed services retirement system included in this conference report [and the Act] would apply only to those who first become members of a uniformed service on or after August 1, 1986. No member who had joined a uniformed service before that date—much less any current retiree of a uniformed service—would be affected.

Most of the features of the current uniformed services retirement system are well known.

(1) An immediate annuity is available to a service member who completes 20 years of service; no benefit is available to a service member who does not complete 20 years of service.

(2) Retired pay equals high-3 average basic pay times a multiplier. (For those becoming members of a uniformed service for the first time before September 7, 1980, [*sic*][13] retired pay is based on final basic pay instead of high-3 average basic pay.) The multiplier equals 2 1/2 percent times years of service and ranges from 50 percent at 20 years of service to 75 percent at 30 or more years of service.

(3) Retired pay is adjusted annually by the increase in the cost of living as measured by the consumer price index (CPI).

The uniformed services retirement system is noncontributory. However, the service member contributes, while on active duty, to the social security system and, thereby, earns eligibility for a social security retirement benefit. The receipt of uniformed services retired pay has no effect on social security retirement benefits and vice versa.

The conferees agreed to change the uniformed services nondisability retirement system as follows:

(1) The formula for the multiplier would remain unchanged—2.5 percent for each year of service up to 30 years of service. However, for members who retire with less than 30 years of service, the multiplier would be reduced by 1 percentage point [from what it otherwise would have been] for each year of service the member retired [with] less than 30 [years of service]. The reduction would be eliminated when the member reached age 62.

(2) The cost-of-living adjustment mechanism would be changed to provide CPI minus 1 for life with a one time restoral in the purchasing power of the annuity at age 62.

With regard to the multiplier, the formula would provide a two- tiered retirement annuity: a reduced annuity between the time the member retires from the uniformed service and the normal retirement age and an unreduced annuity thereafter.

[13] Should read "before September 8, 1980." See, e.g., 10 U.S.C. §1406.

> For example, a member who retires with twenty years of service would receive retired pay based on a multiplier of 40 percent from retirement until age 62 and retired pay based on a multiplier of 50 percent thereafter. For a member who retires with 30 years of service, no reduction in the multiplier would be made and retired pay would be based on the maximum multiplier of 75 percent.[14]

The different methods for adjusting entitlements of members and former members of the uniformed services to retired or retainer pay apply to all forms of retired and retainer pay—including disability retired pay as well as retired pay for non-regular (i.e., reserve) service. Thus, for example, a person who first became a member of a uniformed service on or after August 1, 1986, and who subsequently became entitled to disability retired pay would have his or her entitlement to disability retired pay adjusted in the same way as a nondisability retiree who first became a member of a uniformed service on or after August 1, 1986. That is, such a person's disability retired pay would be adjusted on a CPI-minus-1 basis until the member reached age 62, at which time there would be a one-time "catch-up" for full CPI, with subsequent adjustments based on CPI-minus-1 for the remainder of the retiree's period of entitlement to disability retired pay. Pre-August 1, 1986, accessions who become entitled to disability retired pay or to retired pay for non-regular service will continue to have their entitlements adjusted on a full-CPI basis.

The National Defense Authorization Act for Fiscal Year 2000 repealed many of the changes enacted in the Military Retirement Reform Act of 1986. No longer were members of a uniformed service automatically subjected to the lower retired pay multipliers or the CPI-minus-1 calculation for annual adjustments to retired pay. Instead, all non-disability retirees reverted to the previous formula for calculating retired pay with its full-CPI basis for annual adjustments. Despite this reversion to the previous system, Congress left in place aspects of the Military Retirement Reform Act of 1986. Active duty members reaching their 15th year of service were allowed to opt to accept the reduced retired pay formula with its commensurate reduction in annual adjustments to CPI-minus-1 in exchange for a one-time cash payment during their service known as the Career Status Bonus. If they chose to accept this cash payment, they remained subjected to the CPI-minus-1 annual adjustments as specified in the Military Retirement Reform Act of 1986.[15]

The Bipartisan Budget Act of 2013 revised the cost-of-living adjustment to the retirement pay of members of the Armed Forces who have not reached age 62 to require an annual adjustment to such pay, beginning on December 1, 2015, based on the Consumer Price Index (CPI) less 1%, and required the Secretary of Defense to recompute the retired pay of members when they reach age 62 to restore reductions made to their cost-of-living adjustments.[16] However, Pub. L. 113-82 makes the reduction in annual cost-of-living adjustments of military retired pay for armed forces members under age 62 enacted by the Bipartisan Budget Act of 2013 inapplicable to those who first became members before January 1, 2014. (That Act reduced the cost-of-living adjustments from the full Consumer Price Index [CPI] to the CPI less 1%.)[17] The 2014 Consolidated Appropriations Act makes inapplicable to members retired due to disability and to retired pay used to compute certain Survivor Benefit Plan annuities a reduced annual adjustment, beginning on December 1, 2015, of retired pay for members under the age of 62 (as provided under the Bipartisan Budget Act of 2013). [18] The National Defense Authorization Act for Fiscal Year 2014 prohibited the application of the military retired pay computation using the high-three years of pay to

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[14] H.R. Rep. No. 99-659 (Committee of Conference), at 29–31, accompanying H.R. 4420, 99th Cong., 2d sess. (1986). For a discussion of the various concerns that led to the above-highlighted amendments to the uniformed services retirement system, see S. Rep. No. 99-292 (Committee on Armed Services), at 2–5, accompanying S. 2395, 99th Cong. 2d sess. (1986). Also see H.R. Rep. No. 99-513 (Committee on Armed Services), at 21–27, accompanying H.R. 4420, 99th Cong. 2d sess. (1986).

[15] National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, Title VI, Subtitle D, Sec. 641-642, 113 Stat. 512, 662-663 (1999).

[16] Bipartisan Budget Act of 2013, Pub. L. No. 113-67, Title IV, Sec. 403, 127 Stat. 1165, 1186 (2013).

[17] Pub. L. No. 113-82, Sec. 2, 128 Stat. 1009, 1009 (2014).

[18] Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, Title X, Sec. 10001, 128 Stat. 5, 151 (2014).

certain members who first entered into active duty on or after September 8, 1980, if such application will result in a lower retirement amount than a computation using final basic pay.[19]

The Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 exempted those who joined military service prior to January 1, 2016, from the reduced cost of living adjustment (COLA) for military retired pay made by the Bipartisan Budget Act of 2013.[20] The National Defense Authorization Act for Fiscal Year 2016 repealed all previous amendments related to the cost-of-living adjustment for members under the age of 62.[21]

The three different retirement systems currently in effect for members of the armed forces may be conveniently summarized as follows:

Short Form Reference	**Final Basic Pay**	**High-Three-Year Average**	***Military Retirement Reform Act of 1986 (Redux)***
Applies to:	Persons in service before September 8, 1980	Persons joining service from September 8, 1980, through July 31, 1986, and persons joining after that date and refusing Career Service Bonus upon completion of 15 years of active service	Persons joining service after July 31, 1986, accepting Career Service Bonus upon completion of 15 years of active service and incurring additional 5-year active service obligation
Basis of Computation (Retired or Retainer Pay Base):	Final rate of monthly basic pay	Average monthly basic pay for highest 36 months of basic pay	Average monthly basic pay for highest 36 months of basic pay
Multiplier:	2.5 percent per year of service	2.5 percent per year of service	2.5 percent per year of service less 1.0 percentage point for each year of service less than 30 (restored at age 62)
Cost-of-Living Adjustment Mechanism:	Full CPI-W	Full CPI-W	CPI-W minus 1 percent (one-time catch up at age 62)

The National Defense Authorization Act for Fiscal Year 2016 established the "Modernized Retirement System for Members of the Uniformed Services" creating a fourth retirement system. Additionally, this act eliminates any future payments of the Career Status Bonus after December 31, 2017. The CPI-minus-1 annual adjustments will remain for those members who elect or have elected the Career Status Bonus, but will not continue under the modernized retirement system.

Cost: For a listing of adjustments to retired and retainer pay from 1958 to 2016, see table III-5, below.

[19] National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, Title VI, Subtitle D, Sec. 631, 127 Stat. 672, 785 (2014).
[20] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for fiscal year 2015, Pub. L. No. 113-291, Title VI, Subtitle C, Sec. 623, 128 Stat. 3292, 3403 (2014).
[21] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle D, Sec. 631, 129 Stat. 726, 842 (2015).

Table III-5. Adjustments to Retired and Retainer Pay, June 1958–December 2016

Date of Scheduled Increase	Percentage Increase	Cumulative Increase
Jun 1, 1958	6.0	6.0
Oct 1, 1963	5.0	11.3
Sep 1, 1965	4.4	16.2
Dec 1, 1966	3.7	20.5
Apr 1, 1968	3.9	25.2
Feb 1, 1969	4.0	30.2
Nov 1, 1969	5.3	37.1
Aug 1, 1970	5.6	44.8
Jun 1, 1971	4.5	51.3
Jul 1, 1972	4.8	58.6
Jul 1, 1973	6.1	68.2
Jan 1, 1974	5.5	77.5
Jul 1, 1974	6.3	88.7
Jan 1, 1975	7.3	102.4
Aug 1, 1975	5.1	112.8
Mar 1, 1976	5.4	124.3
Mar 1, 1977	4.8	135.0
Sep 1, 1977	4.3	145.1
Mar 1, 1978	2.4	151.0
Sep 1, 1978	4.9	163.3
Mar 1, 1979	3.9	173.6
Sep 1, 1979	6.9	192.4
Mar 1, 1980	6.0	210.0
Sep 1, 1980	7.7	233.9
Mar 1, 1981	4.4	248.6
Mar 1, 1982	8.7	278.9
Apr 1, 1983	3.9 (1)	293.7
Dec 1, 1984	3.5 (2)	305.1
Dec 1, 1985	0.0 (3)	305.1
Dec 1, 1986	1.3	310.3
Dec 1, 1987	4.2	327.6
Dec 1, 1988	4.0	344.7
Dec 1, 1989	4.7	365.6
Dec 1, 1990	5.4	390.7
Dec 1, 1991	3.7	408.9
Dec 1, 1992	3.0	424.2
Dec 1, 1993	2.6	437.8
Dec 1, 1994	2.8 (4)	452.8
Dec 1, 1995	2.6 (5)	467.2
Dec 1, 1996	2.9 (6)	483.7
Dec 1, 1997	2.1	495.9
Dec 1, 1998	1.3	503.7
Dec 1, 1999	2.5	518.8

Date of Scheduled Increase	Percentage Increase	Cumulative Increase
Dec 1, 2000	3.5	540.4
Dec 1, 2001	2.6	557.1
Dec 1, 2002	1.4	566.3
Dec 1, 2003	2.1	580.3
Dec 1, 2004	2.7	595.6
Dec 1, 2005	4.1	624.1
Dec 1, 2006	3.3	648.0
Dec 1, 2007	2.3	665.3
Dec 1, 2008	5.8	709.7
Dec 1, 2009	0.0	709.7
Dec 1, 2010	0.0	709.7
Dec 1, 2011	3.6	738.8
Dec 1, 2012	1.7	753.1
Dec 1, 2013	1.5	765.9
Dec 1, 2014	1.7	780.6
Dec 1, 2015	0.0	780.6
Dec 1, 2016	0.3	783.2

Notes:
(1) Nondisabled retirees under age 62 received 3.3%.
(2) Starting December 1984, entitlements earned in a particular month are paid at the beginning of the next month.
(3) A cost-of-living adjustment of 3.1%, scheduled for 12/1/85, was suspended as a consequence of P.L. 99-177.
(4) Disabled retirees and survivors received 2.6% on 12/1/93.
(5) Disabled retirees and survivors received 2.8% on 12/1/94.
(6) Disabled retirees and survivors received 2.6% on 12/1/95.

Source: Social Security Administration, https://www.ssa.gov/news/cola/.

Summary of Methods for Making Adjustments to Retired and Retainer Pay Entitlements of Members and Former Members of the Uniformed Services 10 U.S.C. §1401a

Background: (1) Before June 1, 1958, each time military basic pay was increased, retired pay of persons on the retired rolls was, subject to the exceptions set out above, recomputed on the basis of those newly established pay rates. That practice was discontinued on June 1, 1958, and the pay of retired personnel was increased by 6 percent, which approximated the increase in the cost of living since 1955, when retired pay had last been increased. In 1963 a permanent system of increasing retired pay, based on a formula geared to increases in the cost of living, was adopted. That same essential system remains in effect at present, except that the formula is slightly different for persons who first became members of a uniformed service after July 31, 1986 and who elect to convert to a reduced retirement in exchange for a one-time cash payment known as the Career Status Bonus. (2) Under the current system for adjusting retired or retainer pay of retired members or former members of the armed forces, retired or retainer pay is increased in December of each year based on the percentage by which the average Consumer Price Index (CPI) for the preceding July–September quarter increased over the average CPI for the same quarter one year before.[1] [2] (3) For persons who first became members of a uniformed service on or after

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[1] The Consumer Price Index (CPI), which is designed to measure the average change in prices paid by urban consumers for a specified set of goods and services, is a numerical index produced and updated regularly by the United States Department of Labor's Bureau of Labor Statistics. Two different indexes are maintained —the index for urban wage earners and clerical workers (CPI-W) and the index for all urban consumers (CPI-U). CPI-U represents the buying habits of approximately 87 percent of the non-institutional population of the United States, whereas the older CPI-W represents the buying habits of only approximately 32 percent of the same population. "The Consumer Price Index," Chapter 17 of the BLS Handbook of Methods, United States Department of Labor, Bureau of Labor Statistics, Washington, D.C. CPI-W is the index actually used to make adjustments in retired and retainer pay.

[2] The Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §2001, 107 Stat. 312, 335 (1993), amended 10 U.S.C. §1401a by suspending for fiscal years 1994 through 1998 the normal rule under which retired or retainer pay increases for a given fiscal year were to go into effect on December 1 of that fiscal year. Under the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §2001, *id*., the effective date for the increase in retired or retainer pay that was scheduled to have gone into effect on December 1, 1993, for fiscal year 1994 was postponed to March 1994, and the effective dates for the increases scheduled to have gone into effect on December 1, 1994, December 1, 1995, December 1, 1996, and December 1, 1997, for fiscal years 1995, 1996, 1997, and 1998, respectively, were postponed, to September 1, 1995, September 1, 1996, September 1, 1997, and September 1, 1998, respectively (except for disability retirees, whose date for receiving retired pay increases remained fixed at December 1). The amendment effected by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §2001, *id*., was itself amended by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §1182, 107 Stat. 1547, 1773 (1993), without substantively changing the result. The Department of Defense Appropriations Act, 1995, Pub. L. No. 103-335, §8114A, 108 Stat. 2599, 2648 (1994), made an exception to the September 1, 1995, effective date for the fiscal year 1995 cost-of-living adjustment by providing that the increase would be effective on March 1, 1995. *Cf*. National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §631, 108 Stat. 2663, 2785–2786 (1994). Similarly, the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §631(a), 110 Stat. 186, 364 (1996), provided that the increase in retired pay that became effective December 1, 1995, for fiscal year 1996 would be first payable on March 1, 1996, and that the increase that will become effective on December 1, 1997, for fiscal year 1998 would be first payable on September 1, 1998, provided, however, that the increase in military retired pay for fiscal year 1998 may not become effective at a date later than the date on which a retired-pay adjustment becomes effective for retired Civil Service personnel. Budget considerations underlay the original postponement provided in the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §2001, *id*. H.R. Rep. No. 103-111 (Budget Committee), at 72–73, accompanying H.R. 2264, 103d Cong., 1st sess. (1993); *cf*. H.R. Rep. No. 103-213 (Committee of Conference), at 435–36, accompanying H.R. 2264, 103d Cong., 1st sess. (1993). Considerations of basic fairness and equity as between the effective date of cost-of-living increases for military and civilian retirees underlay the change from September 1, 1995, to March 1, 1995, as made clear by the following sense-of- Congress statement incorporated as Section 632 of the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §632, 108 Stat. 2663, 2786 (1994):

(a) FINDINGS.—Congress makes the following findings:

August 1, 1986, and who elect to accept the Career Status Bonus, the adjustment is based on the same percentage figure as determined under Paragraph 2 immediately above less one percentage point, provided that there may not under any circumstances be a reduction in retired or retainer pay after applying the adjustment mechanism. If an adjustment that would otherwise have been made for a particular year is eliminated under a budget reconciliation provision, for example, or some other non-permanent reduction mechanism, the next time a cost-of-living adjustment is made each member's entitlement to retired or retainer pay will be increased to the same level as if the adjustment had not been eliminated in the first instance.[3] (4) The first CPI adjustment given after a person retires differs from the procedure set out under Paragraphs 2 and 3 immediately above. For a member who first became a member of a uniformed service on or after August 1, 1986, and who elects to accept the Career Status Bonus, the first adjustment to retired or retainer pay is determined by taking the percentage increase in average CPI for the preceding July–September quarter over the average CPI for the quarter (July–September, October–December, January–March, April–June) preceding the member's retirement. For all other members, the first adjustment is determined by taking the percentage increase in average CPI for the preceding July–September quarter over the average CPI for the quarter (July–September, October–December, January–March, April–June) preceding the last increase in basic pay, and this adjustment is made at the time of retirement if the last general retired-pay adjustment came between the last increase in basic pay and the time of retirement.

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(1) Congress, in the Omnibus Budget Reconciliation Act of 1993, changed the effective date for future cost-of-living adjustments for military retired pay and for Federal civilian retirement annuities, which (before that Act) were provided by law to be made effective on December 1 each year.

(2) The timing, and the percentage of increase, of military and Federal civilian retirees' cost-of-living adjustments have been linked for decades.

(3) The effect of the enactment of the Omnibus Budget Reconciliation Act of 1993 was to abandon the longstanding congressional practice of treating military and Federal civilian retirees identically in matters related to cost-of-living adjustments.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) as a matter of simple equity and fairness, it is imperative that cost-of-living adjustments in retirement benefits for military and Federal civilian retirees be returned to an identical schedule as soon as possible, but not later than January 1, 1999;

(2) if after October 1, 1998, there is, by law, a difference between the date on which a cost-of-living adjustment for Federal civilian retirees takes effect and the date on which a cost-of-living adjustment for military retirees takes effect, then the difference in those effective dates should be eliminated by requiring that cost-of-living adjustments for both classes of retirees become effective on the earlier of the two dates; and

(3) if after October 1, 1998, there is, by law, a difference between the first month for which a cost-of-living adjustment for civilian retirees is payable and the first month for which a cost-of-living adjustment for military retirees is payable, then the difference in the months for which those adjustments are first payable should be eliminated by requiring that the cost-of-living adjustments for both classes of retirees first become effective for the earlier of the two months.

In this same connection, see H.R. Rep. No. 103-499 (Committee on Armed Services), at 252–53, accompanying H.R. 4301, and H.R. Rep. No. 103-701 (Committee of Conference), at 714–15, accompanying S. 2182, 103d Cong., 2d sess. (1994). With respect to the specification of the effective dates for military retired and retainer pay COLAs for fiscal years 1996 and 1998, Congress was particularly concerned to eliminate any disparity in treatment as between military and Civil Service retirees. See H.R. Rep. No. 104-131 (Committee on National Security), at 232–33, accompanying H.R. 1530, S. Rep. No. 104-112 (Committee on Armed Services), at 257, accompanying S. 1026, and H.R. Rep. No. 104-406 (Committee of Conference), at 817–18, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); and H.R. Rep. No. 104-450 (Committee of Conference), at 808, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[3] 10 U.S.C. §1401a(b)(4) as added by Section 1(a)(2) of the Act of December 30, 1987 (Technical Corrections to Military Retirement Reform Act of 1986), Pub. L. No. 100-224, §1(a)(2), 101 Stat. 1536 (1987). See H.R. Rep. No. 100-231 (Committee on Armed Services), at 2, accompanying H.R. 2974, 100th Cong., 1st sess. (1987).

MILITARY RETIRED PAY COST-OF-LIVING INCREASES
(JUNE 1958 TO DECEMBER 2016)

Date of Increase	Percentage Increase	Cumulative % From Date of Increase
6/1/1958	6.0	791.3
10/1/1963	5.0	740.8
9/1/1965	4.4	700.8
12/1/1966	3.7	667.0
4/1/1968	3.9	639.7
2/1/1969	4.0	611.9
11/1/1969	5.3	584.5
8/1/1970	5.6	550.1
6/1/1971	4.5	515.6
7/1/1972	4.8	489.1
7/1/1973	6.1	462.1
1/1/1974	5.5	429.8
7/1/1974	6.3	402.2
1/1/1975	7.3	372.4
8/1/1975	5.1	340.3
3/1/1976	5.4	318.9
3/1/1977	4.8	297.4
9/1/1977	4.3	279.2
3/1/1978	2.4	263.6
9/1/1978	4.9	255.1
3/1/1979	3.9	238.5
9/1/1979	6.9	225.8
3/1/1980	6.0	204.8
9/1/1980	7.7	187.5
3/1/1981	4.4	167.0
3/1/1982	8.7	155.7
4/1/1983	3.9 (1)	135.2
12/1/1984	3.5 (2)	126.4
12/1/1985	0.0 (3)	118.8
12/1/1986	1.3	118.8
12/1/1987	4.2	115.9
12/1/1988	4.0	107.2
12/1/1989	4.7	99.3
12/1/1990	5.4	90.3
12/1/1991	3.7	80.6
12/1/1992	3.0	74.1
12/1/1993	2.6	69.1
12/1/1994	2.8 (4)	64.8
12/1/1995	2.6 (5)	60.3
12/1/1996	2.9 (6)	56.2
12/1/1997	2.1	51.8
12/1/1998	1.3	48.7
12/1/1999	2.5	46.8
12/1/2000	3.5	43.4

MILITARY RETIRED PAY COST-OF-LIVING INCREASES
(JUNE 1958 TO DECEMBER 2016)

Date of Increase	Percentage Increase	Cumulative % From Date of Increase
12/1/2001	2.6	38.5
12/1/2002	1.4	35.0
12/1/2003	2.1	33.1
12/1/2004	2.7	30.5
12/1/2005	4.1	27.0
12/1/2006	3.3	22.0
12/1/2007	2.3	18.1
12/1/2008	5.8	15.4
12/1/2009	0.0	9.1
12/1/2010	0.0	9.1
12/1/2011	3.6	9.1
12/1/2012	1.7	5.3
12/1/2013	1.5	3.5
12/1/2014	1.7	2.0
12/1/2015	0.0	0.3
12/1/2016	0.3	0.3

(1) Nondisabled retirees under age 62 received 3.3%.
(2) Starting December 1984, entitlements earned in a particular month are paid at the beginning of the next month.
(3) A cost-of-living adjustment of 3.1%, scheduled for 12/1/85, was suspended as a consequence of P.L. 99-177.
(4) Disabled retirees and survivors received 2.6% on 12/1/93.
(5) Disabled retirees and survivors received 2.8% on 12/1/94.
(6) Disabled retirees and survivors received 2.6% on 12/1/95.

Source: Social Security Administration, https://www.ssa.gov/news/cola/.

Chapter III.B.5.
Imputed Contribution for Retirement Benefits

Legislative Authority: None: The "retirement system" for members of the armed forces is "noncontributory."

Purpose: The standard reasons favoring explicit contributions by individual employees to retirement funds may be summarized as:

* Lower direct costs to the employer.
* The possibility of higher employee retirement benefits.
* Greater understanding and appreciation of the retirement plan by the employee.
* The belief that contributions give an employee a "contractual right" to a pension.[1]

Background: The military retirement system has been "noncontributory" since its inception. Three major studies in the last half century have explored the issue of whether it should remain noncontributory. The so-called Hook Commission, whose 1948 report and recommendations led to the introduction and enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), recommended that the military retirement program be noncontributory.[2] A research group at the University of Michigan concluded in 1961 that Congress should not adopt a contributory plan.[3] In 1967 the First Quadrennial Review of Military Compensation[4] recommended that a 6.5-percent retirement contribution be collected from the full military salaries of career members.[5] In 1970 the Gates Commission supported the First Quadrennial Review's recommendation[6] but did not address the subject in any detail.

The Hook Commission's reasons for recommending against establishment of a contributory military retirement system were as follows:

> A noncontributory plan of retirement is traditional with the military and particularly suited to a Government agency. Private industry, lacking the taxing power and the security of perpetual existence, wisely accumulates in advance the funds from which to pay retirement benefits, even though the employer's corporate existence should end. The Government has no need to accumulate such a fund as long as the power to tax exists. Other such Government funds are in reality only bookkeeping entries and the receipts of funds are in fact merged into the general funds of the Treasury and used as such for current expenses. They cannot be set aside years in advance to serve a particular purpose and be productive unless the Government is to

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[1] *A Study of the Military Retired Pay System and Certain Related Subjects*, Report to the Senate Armed Services Committee by the Study Committee of the University of Michigan, Committee Print, at 65–66, 87th Cong., 1st sess. (1961).

[2] *Career Compensation For the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 39–41.

[3] *A Study of the Military Retired Pay System and Certain Related Subjects*, Report to the Senate Armed Services Committee by the Study Committee of the University of Michigan, Committee Print, at 68, 87th Cong., 1st sess. (1961).

[4] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system of the uniformed services. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in 2001.

[5] *Report of the First Quadrennial Review of Military Compensation, Volume I*: *Modernizing Military Pay*, November 1967, 56.

[6] *The Report of the President's Commission on an All-Volunteer Armed Force*, February 1970, 62.

> move into ownership of the tools of production. Thus, with the fund itself serving no useful purpose, to establish a contributory plan or a funded noncontributory plan would only create a large extra expense to the Government in providing the administrative and clerical personnel necessary to deduct and record the contributions, real or fictitious, and to administer the so-called fund.[7]

In recommending against a contributory retirement system, the University of Michigan, on the other hand, noted that (1) employee contributions represent only a small fraction of retirement benefit costs under any retirement system; (2) even in civilian plans, when a contributory pension plan is first implemented, a general pay raise covering all or part of the contribution is often necessary to compensate for the reduction in take-home pay that would otherwise occur; and (3) under a contributory military retirement program, the administrative costs associated with running an enormous savings bank with some 2½ million accounts—1961 figures—having a heavy customer turnover would offset—possibly overwhelm—any savings. For these reasons, the Michigan research group concluded that any government cost savings resulting from a retirement contribution by military personnel would be small at best—possibly non-existent—and recommended against a contributory plan.

By 1967, when the Pay Report[8] of the First Quadrennial Review was released, the House Armed Services Committee stated that military basic pay rates were lower by 6.5 percent than they otherwise would have been if members of the armed forces were required to make a retirement contribution. The First Quadrennial Review concluded that this imputed retirement contribution was inequitable to members who realized no value from it because they did not serve to retirement. Accordingly, a 6.5-percent retirement contribution—vested so that the survivor or survivors, if any, of a member who died before becoming eligible for retired pay could collect the amount contributed—was recommended. This contribution was to be collected only from so-called "career" members, defined in the Pay Report as officers, enlisted members in pay grades E-6 through E-9, and members in pay grades E-4 or E-5 with four or more years of service or with between two and four years of service plus a commitment to serve at least six years. The retirement-contribution recommendation was fused with a further recommendation that the elements of basic pay, quarters, subsistence, federal income tax advantage, and imputed retirement contribution be combined into a full military salary for career members.

A 1975 Wyatt Company study of the retirement plans of the 50 largest industrial companies and the 50 states also bears on the choice between contributory and noncontributory retirement systems.[9] This study concluded that the trend in the private sector continued to be toward noncontributory coverage, with 29 of the top-50 salaried pension plans being noncontributory, and with at least five major corporations having eliminated employee contributions in the preceding five years. In addition, and bolstering its own conclusions, the Wyatt study cited a 1975 Bankers Trust study of corporate pension plans as confirming that the majority of such plans were noncontributory and that the trend was toward noncontributory plans. The study also indicated, however, that most non-federal public plans were contributory and that the trend for such plans was toward increased rates of contribution, although a limited number of states had reduced or eliminated employee contributions.

Quite apart from the controversy surrounding contributory and noncontributory retirement plans, it is clear that members of the uniformed services have never made explicit retirement contributions out of

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[7] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 40–41.

[8] *Report of the First Quadrennial Review of Military Compensation, Volume I: Modernizing Military Pay*, November 1967.

[9] *Retirement Trends in Industrial and Public Pension Systems*, A Study Conducted by the Wyatt Company for the Department of Defense, April 30, 1975.

their active-duty pay to fund future military retired and retainer pay.[10] Whether active-duty pay has in fact been reduced from the level at which it would otherwise have been established on account of an implicit, or imputed, retirement contribution is less clear.

In 1963 the Department of Defense proposed military pay levels that it estimated would achieve comparability between military compensation and Civil Service salaries. With one major exception, the House Armed Services Committee accepted the proposed pay levels. The committee did not accept that part of the Department of Defense proposal that would have increased basic pay rates for personnel with less than two years of service. The Senate Armed Services Committee materially amended the House bill by (1) providing "under-two" increases for officers and for enlisted members in pay grades E-4 and E-5, (2) enlarging the bill's increases for pay grades O-1 through O-4 and E-4 through E-7, and (3) deleting all subsistence increases. Except for the "under-two" increases, the Senate amendment prevailed. Neither the Department of Defense nor the House or Senate Armed Services Committees ever indicated that the pay levels thus adopted—and enacted as the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, 77 Stat. 210 (1963)—had been depressed by any percentage for an imputed military retirement contribution.

The 1964 military pay legislation, adopted as the Act of August 12, 1964, Pub. L. No. 88-422, 78 Stat. 395 (1964), was enacted to maintain a reasonable compensation trend for military personnel in relation to Civil Service employees. It provided an 8.5-percent basic pay increase for officers with less than two years of service and a 2.5-percent basic pay increase for all personnel with more than two years of service; it did not address the question of an imputed retirement contribution.

In 1965 the Department of Defense proposed a 5-percent increase in military pay for personnel with more than two years of service "to maintain the 1963 relationship between military and civilian pay" and a 2.7-percent cost-of-living increase for personnel with less than two years of service. Rejecting the Department of Defense proposal, the House Armed Services Committee conducted its own study and concluded "beyond a reasonable doubt" that military pay increases had lagged behind those for Civil Service employees by 10 to 11 percent (after "shredding out" under-two personnel) between 1952 and 1964. It accordingly reported out a bill that increased basic pay rates by an average of 10.7 percent, or more than double the percentage proposed by DoD. In connection with its bill, the committee stated:

> After determination was made of the level of pay (including allowances) considered appropriate for each military grade, account was taken of an imputed 6 1/2-percent contribution to retirement on basic pay (except for enlisted personnel with less than 2 years' service).... The importance of this step is that it would set out "in the record" the actual amounts by which military pay scales are lowered because of the military "noncontributory" retirement system and the tax-free status of the basic allowances for quarters and subsistence. In the history of all previous military pay legislation, no documentation of such adjustment has been provided for the record.[11]

The Senate Armed Services Committee did not accept the pay levels incorporated in the House bill but instead reported out its own bill that would have increased basic pay rates by a flat 6 percent for officers with more than two years of service and by 11 percent for enlisted personnel with more than two years of service. The Senate committee emphasized that the House proposal was incompatible with the then-current structure of the military compensation system and that, for its part, it did not want any structural change in that system. The Senate's flat-percentage-increase pay levels—with its concomitant no-structural-change point of view—were incorporated in the military pay legislation for 1965, the Act of August 21, 1965, Pub. L. No. 89-132, §1, 79 Stat. 545, 545–46 (1965).

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[10] Nor, for that matter, have members of the reserve components of the armed forces made retirement contributions based on compensation they have received under Section 206 of Title 37, United States Code, for inactive-duty training.

[11] H.R. Rep. No. 549 (Committee on Armed Services), at 24, accompanying H.R. 9075, 89th Cong., 1st sess. (1965).

Based on the evolution of the 1965 military pay legislation, it would seem that the imputed retirement contribution theory embraced in the House Armed Services Committee Report applied only to the pay bill it had reported out, that the committee had effectively abandoned the theory when it agreed to the revisions incorporated in the Senate bill, and that, accordingly, as of 1965 there was no congressional finding that military pay levels had in fact been depressed for imputed retirement contributions.

The 1965 situation was continued in the military pay legislation for 1966, the Act of July 13 1966, Pub. L. No. 89-501, §301, 80 Stat. 275, 276–78 (1966), which gave an across-the-board pay increase of 3.2 percent.

The military pay legislation for 1967, enacted as the Act of December 16, 1967, Pub. L. No. 90-207, §1(1), 81 Stat. 649, 649–50 (1967), further increased basic pay rates by 5.6 percent across the board. This increase in basic pay was equivalent to a 4.5-percent increase in regular military compensation (RMC),[12] and its purpose was to maintain the comparable relationship between RMC and General Schedule salaries of federal civilian employees. There was no suggestion by either the Department of Defense or Congress that the military pay levels established in 1967 had been reduced for an imputed retirement contribution.

In addition to providing a basic pay increase in 1967, the Act of December 16, 1967, Pub. L. No. 90-207, §8, 81 Stat. 649, 654–55 (1967), also provided that whenever in the future the General Schedule salaries of federal employees were increased a comparable increase was to be made in the basic pay of members of the uniformed services. Under this authority, military pay increases between 1967 and 1971 were made by executive order. These increases had no bearing on an imputed retirement contribution; they simply maintained the preexisting relationship between RMC and Civil Service salaries.

In January 1971, the Department of Defense submitted a fiscal year 1972 proposal to Congress to increase basic pay rates for personnel with less than two years of service and to increase quarters allowances for personnel in pay grades E-1 through E-4 (four or fewer years of service) by an average of 36 percent over January 1971 levels. It was indicated that a second step was planned for fiscal year 1973 when recommendations would be forwarded that would make military pay fully competitive with civilian pay. At the request of the House Armed Services Committee, the fiscal year 1973 program was developed and furnished to the committee in February. The Department of Defense's fiscal year 1973 proposal would have increased basic pay rates for personnel with less than two years of service by an average of 68.6 percent over January 1971 levels, raised basic allowance for quarters rates for all personnel to 100 percent of the FHA median of housing expenses for comparable income groups, and increased basic allowance for subsistence rates to the level of the Department of Defense food cost index. In support of this recommendation, the Assistant Secretary of Defense for Manpower and Reserve Affairs testified as follows concerning the question of imputed retirement contribution:

> I said that the increases recommended for fiscal year 1973 would bring regular military compensation to competitive levels, or what we call the military pay standard. The military pay standard has been established over a period of years by comparisons made between the job content of military positions and civilian positions. The civilian positions are within the civil service or governmental structure....

[12] Under 37 U.S.C. §101(25) as added by the Act of September 19, 1974, Pub. L. No. 93-419, §1, 88 Stat. 1152 (1974), regular military compensation was defined as the total of the basic pay, basic allowance for subsistence, basic allowance for quarters, and the tax advantage attributed to members of the armed forces because of the non-taxable status of the allowances that a member receives, directly or indirectly, on account of military service. See Chapter II.B.1., "Basic Pay," and Chapter II.B.4., "Federal Income Tax Advantage," above. (This definition was subsequently amended by the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §11, 94 Stat. 3359, 3368–3369 (1980), to include variable and station housing allowances, if any, within the RMC construct. See Chapter II.B.2., "Housing Allowances," above, for a discussion of the reasons underlying this amendment.)

> The military pay standard is constructed so that it recognizes that military pay does not include a retirement contribution; instead the competitive level of compensation which would be appropriate under a contributory retirement system is depressed by 7 percent as an imputed contribution toward the member's retirement.[13]

The House did not accept the Department of Defense recommendation that military pay levels be increased in two steps but instead reported out a bill that incorporated the proposed fiscal year 1973 pay rates and provided that, instead of becoming effective in fiscal year 1973, the rates would become effective upon enactment. In its report on the bill, the House Armed Service Committee stated:

> The Congress in Pub. L. No. 90-207 defined Regular Military Compensation (RMC) as consisting of the following elements that service members receive in cash or in kind every payday: basic pay, quarters allowances, subsistence allowance and tax advantage (received because the quarters and subsistence allowances are not subject to Federal income tax).
>
> It is the Regular Military Compensation that is used to establish competitive military pay levels which bear a reasonable relationship to civilian wages for equivalent levels of work. The RMC is based on a military pay standard so constructed that it recognizes that RMC does not include a specific retirement contribution. In other words, the military compensation is depressed by 7 percent to reflect an imputed contribution towards the member's retirement.[14]

The House bill was substantively amended by the Senate, which reported out a bill containing only the Department of Defense's original fiscal year 1972 proposal. In its report on this latter bill, the Senate Armed Services Committee commented on the issue of imputed retirement contribution in these terms:

> Finally, it should be pointed out that since there is no accepted comparability system linking the various military and civilian pay grades it cannot therefore be reasonably said that military basic pay is being depressed by any percentage as an imputed contribution toward reducing military retired costs.[15]

Upon passage, the divergent bills of the House and Senate were referred to a joint House–Senate conference, where the differences were resolved. The resultant military pay levels were lower than those of the House bill (the Department of Defense's fiscal year 1973 proposal) but higher than those of the Senate bill (DoD's fiscal year 1972 proposal). The House bill's average 68.6-percent basic pay increase for personnel with less than two years of service was agreed to, its BAQ increase to 100 percent of the FHA standard was scaled down to 85 percent of the standard, and its BAS increase was deleted. The compromise pay levels were enacted as part of the Act of September 28, 1971 (Military Selective Service Act Amendments of 1971), Pub. L. No. 92-129, §201, 85 Stat. 348, 355–57 (1971), and became effective in November 1971.

As this chronological analysis of pay legislation shows, military pay levels were not depressed for an imputed retirement contribution prior to 1971. Military pay increases from 1972 through 1979 were made by executive order under authority of the Act of December 16, 1967, Pub. L. No. 90-207, §8, 81 Stat. 649, 654–55 (1967), and the Act of September 19, 1974, Pub. L. No. 93-419, §4, 88 Stat. 1152, 1152–1153 (1974).[16] These increases simply maintained the relative position of military pay and Civil Service salaries;

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[13] *Extension of the Draft and Bills Related to the Voluntary Force Concept and Authorization of Strength Levels: Hearings before the House Armed Services Committee*, H.A.S.C. Document 92-2, 92d Cong., 1st sess., 179 (1971).

[14] H.R. Rep. No. 92-82 (Committee on Armed Services), at 24–25, accompanying H.R. 6531, 92d Cong., 1st sess. (1971).

[15] S. Rep. No. 92-93 (Committee on Armed Services), at 31, accompanying H.R. 6531, 92d Cong., 1st sess. (1971).

[16] The Act of September 19, 1974, Pub. L. No. 93-419, §4, 88 Stat. 1152, 1152–1153 (1974), adopted a new pay adjustment mechanism, codified at 37 U.S.C. §1009, under which the entire increase in military compensation was no longer incorporated solely in basic pay. Instead, whenever General Schedule, i.e., Civil Service, salaries were

they had no bearing on an imputed retirement contribution. Pay increases for 1980 and 1981 were made by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §801, 94 Stat. 1077, 1090–1092 (1980), and the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §101(b), 95 Stat. 989, 989–92 (1981), respectively. The pay increases authorized by these latter two pieces of legislation exceeded the pay raises awarded General Schedule civilian employees—but there was no indication that the reason for the more generous treatment accorded members of the uniformed services had anything to do with a retirement contribution, whether imputed or not. Indeed, the issue was never raised at all. Instead, the relatively greater increases for members of the uniformed services stemmed from a felt need to improve manning and retention levels in the various services and was, if anything, a rather straightforward response to a perceived supply–demand imbalance.[17] Nor is there any suggestion in any subsequent legislation relating to military pay that an imputed retirement contribution was to be taken into account in connection with pay increases.[18] If regular military compensation is currently depressed for an imputed retirement contribution, the imputed contribution could only have been created in 1971 by the Act of September 28, 1971, Pub. L. No. 92-129, 85 Stat. 348 (1971).

If there were in fact an imputed retirement contribution, logically it would seem it should be deducted primarily or wholly from basic pay, since that is the only element of RMC used in the computation of retired pay. The Act of September 28, 1971, Pub. L. No. 92-129, 85 Stat. 348 (1971), did not demonstrably depress basic pay rates, because it left basic pay rates for personnel with more than two years of service unchanged (except for small increases in some grades to prevent "under-two" raises from causing an undue compression). As to the depression of RMC as a whole for this purpose, it must be recognized that Congress did not specifically accept the "military pay standard" used by the Department of Defense as the basis for its fiscal year 1973 proposal as a legitimate benchmark for comparing military and Civil Service pay levels. Moreover, even had it expressly approved the proposition that the increases recommended for fiscal year 1973 would establish a competitive level of military compensation equal to 93 percent of the level that would be appropriate under a contributory retirement system, the fact that the RMC level adopted in the Act of September 28, 1971, Pub. L. No. 92-129, *id*., was different from the RMC level proposed by the Department of Defense for fiscal year 1973 produced an inevitable distortion in the original calculations.

These circumstances compel a conclusion that military basic pay rates are not currently depressed for an imputed retirement contribution. The level of RMC as a whole may be lower by some percentage than it otherwise would have been under a contributory military retirement system; however, in the absence of an accepted military-pay standard, neither the proposition that RMC is depressed by 7 percent, or any other exact percentage, nor the premise that any such reduction—assuming there is one—resulted from an imputed retirement contribution, is demonstrable.

A separate but related issue involves the establishment of the Department of Defense Military Retirement Fund. The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §925(a)(1), 97 Stat. 614, 644–48 (1983), established an accrual accounting system for military retired and retainer pay, including retired pay for members and former members of the reserve components of the armed forces. This system, called the Department of Defense Military Retirement Fund, is codified as Chapter 74 of Title 10, United States Code, 10 U.S.C. §§1461–1467. Under the accrual accounting system, funds are

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increased, military compensation was also to be increased, with raises distributed to all three cash elements of RMC—basic pay, basic allowance for quarters, and basic allowance for subsistence—each of which was to be increased by the same percentage as General Schedule salaries. See 37 U.S.C. §1009. See Chapter II.B.1., "Basic Pay," hereof, above, for a more complete description of the annual pay adjustment mechanism adopted for members of the uniformed services by the Act of September 19, 1974, Pub. L. No. 93-419, §4, 88 Stat. 1152, 1152–1153 (1974).

[17] See generally Chapter II.B.1., "Basic Pay," above. In particular, see text accompanying footnotes 32 to 39 of Chapter II.B.1.

[18] In this connection, see discussion of the establishment of the Department of Defense Military Retirement Fund in Appendix I.

appropriated every year to defray future retirement cost liabilities. The appropriated funds are charged to the Department of Defense manpower budget and are transferred to a special fund known as the Department of Defense Military Retirement Fund, which is administered by the Department of the Treasury.

The establishment of the Military Retirement Fund in no way affected the basic nature of the military retirement system. The system is still noncontributory, and Congress, in establishing the fund, in no way indicated that military pay was artificially depressed because of payments into the fund. Congress's expressed purpose in establishing the fund was to provide funding for military retirement obligations at the time those obligations are incurred. As stated by the House Armed Services Committee:

> ... From the Federal government's perspective, the issue of funding is primarily a matter of timing. Should funds be raised by taxing and borrowing when the obligation becomes due, or should funds be set aside through taxing and borrowing when the obligation is incurred?[19]
>
> The establishment of the Department of Defense Military Retirement Fund provided an answer to the question—funding of future military retirement liabilities should be made when the obligation is incurred.[20]

[19] H.R. Rep. No. 98-107 (Committee on Armed Services), at 225, accompanying H.R. 2969, 98th Cong., 1st sess. (1983). See H.R. Rep. No. 98-352 (Committee of Conference), at 228, and S. Rep. No. 98-213 (Committee of Conference), at 228, accompanying S. 675, 98th Cong., 1st sess. (1983).

[20] For more background on the Department of Defense Military Retirement Fund, see Appendix I, "Department of Defense Military Retirement Fund." For a discussion of the relationship between the accrual accounting system established in the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, 97 Stat. 614 (1983), and modifications to the military retirement system effected by the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), see Chapter III.B.1. hereof, "Nondisability Retired and Retainer Pay," above.

Chapter III.C.1.
Nondisability Separation Pay

Legislative Authority: 10 U.S.C. §1174. (Separation authority is found in Chapters 59, 60, and 1221 of Title 10, United States Code, as well as at 10 U.S.C. §580 and §6383 and various parts of Title VI of the Defense Officer Personnel Management Act, Pub. L. No. 96-513, 94 Stat. 2835 (1980).)

Purpose: To provide a lump-sum payment to eligible active and reserve Service members who have completed six or more, but fewer than twenty, years of active service immediately before being involuntarily discharged or denied continuation of service for which they volunteered, short of retirement eligibility.

Background: Nondisability separation pay has a long legislative history in one form or another. At times, it has been awarded only to personnel forced out of service against their wishes. The Act of May 14, 1800, ch. 69, §§2 and 3, 2 Stat. 85, 86 (1800), is an early example of such legislation. It empowered the President to discharge by June 15, 1800, any Army "officers, non-commissioned officers and privates ... except the engineers, inspector of artillery, and inspector of fortifications," and authorized three months' additional pay for personnel discharged under that authority. At other times, separation pay—also called "severance pay"—has been paid without regard to the voluntary or involuntary nature of the separation on which it was predicated. The Act of December 24, 1811, ch. 10, §2, 2 Stat. 669, 669–70 (1811), for example, awarded a "bounty" of three months' pay and 160 acres of public land to all former enlisted personnel who had "faithfully performed their duty whilst in service." Under applicable provisions of Title 10, United States Code, as amended by the Defense Officer Personnel Management Act of 1980, Pub. L. No. 96-513, 94 Stat. 2835 (1980), nondisability separation pay was authorized only for officers in military service—both commissioned and warrant officers, regular and reserve—and reserve enlisted personnel involuntarily discharged, released, or otherwise not continued in military service after at least five years of continuous active duty. Under further amendments to nondisability separation pay made by the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §501(a)–(d), 104 Stat. 1485, 1549–1550 (1990), nondisability separation pay is authorized for all members of the armed forces—officers and enlisted personnel, regular and reserve. It is, however, available only to persons involuntarily separated from active service, which includes active duty and full-time National Guard duty.

The Officer Personnel Act of 1947, ch. 512, Pub. L. No. 80-381, 61 Stat. 795 (1947), required, as part of its "up-or-out" promotion system, the involuntary discharge of regular officers of any branch of service who failed of selection for promotion and who were not eligible for retirement. Persons discharged under that authority were entitled to severance pay computed at the rate of two months' basic pay for each year of commissioned service, not to exceed the lesser of two years' basic pay or $15,000.

The Officer Personnel Act, ch. 512, *id*., also required Navy and Marine Corps selection boards to report the names of officers with less than 20 years of service who were considered to have performed unsatisfactorily in their current respective grades. An individual officer so reported was involuntarily discharged with the same entitlement to severance pay as officers who failed of selection for promotion—that is, with two months' basic pay for each year of commissioned service, not to exceed the lesser of two years' basic pay or $15,000. This "unsatisfactory performance" authority eliminated only a handful of officers. The legislative history of the act does not explain why officers discharged for unsatisfactory performance had the same entitlement as those discharged merely because it was determined that they were less qualified for promotion than some of their contemporaries.

The Officer Personnel Act, ch. 512, *id*., contained no "unsatisfactory performance" separation provisions for Army and Air Force officers. However, the Army and Air Force Vitalization and Retirement Equalization Act of 1948, ch. 708, Pub. L. No. 80-810, 62 Stat. 1081 (1948), required the Secretaries of the Army and Air Force to convene annual boards to review the records of regular officers and to require any officers whose performance of duty was "substandard" to "show cause" why they should be retained on the active list. Officers removed under the "show cause" process who were not eligible for retirement were to be discharged with severance pay computed at the rate of one month's basic pay for each year of commissioned service, not to exceed one year's basic pay. Like

its Navy and Marine Corps counterpart, the Army and Air Force "show cause" procedure in practice eliminated only a handful of officers.

The severance-pay formula of the Army and Air Force Vitalization and Retirement Equalization Act, ch. 708, *id*., was, on the surface, significantly different from, and less favorable than, the formula for Navy and Marine Corps officers discharged under roughly similar circumstances, and for any officer discharged for failure of selection for promotion. However, increases in basic pay rates between the time the Army and Air Force Vitalization and Retirement Equalization Act became law in 1948 and 1980 significantly distorted the relationship between the two formulas. For example, in 1980, prior to enactment of the Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, 94 Stat. 2835 (1980), an Army or Air Force major discharged after 12 years of service for substandard performance was entitled under the "less favorable" formula—which had no absolute dollar ceiling—to severance pay of one year's basic pay, or $24,580.80. The entitlement of a Navy or Marine Corps officer in the same pay grade discharged for unsatisfactory performance, or of a similar officer of any service discharged for failure of promotion, was limited to $15,000 under the "more favorable" formula of two months' basic pay times years of service, not to exceed the lesser of two years' basic pay or $15,000.

The Act of July 9, 1956, ch. 676, Pub. L. No. 84-676, 70 Stat. 517 (1956), established the first specific program for severance pay for reserve personnel. It added a provision to the armed forces Reserve Act of 1952, ch. 608, Pub. L. No. 82-476, 66 Stat. 481 (1956), that allowed payment of "readjustment pay" to reserve members—both officer and enlisted—who, after five or more years of continuous active duty, were involuntarily released from service or who were released at the end of their tour after having volunteered, but not been accepted, for an additional tour.

From 1956 to 1962, readjustment pay was computed at the rate of one-half month's basic pay for each year of active service, not to exceed nine months' basic pay. The Act of June 28, 1962, Pub. L. No. 87-509, §1, 76 Stat. 120 (1962), changed the formula to generally equalize levels of readjustment pay for reservists with severance pay for regulars. The act provided for the computation of readjustment pay at the rate of two months' basic pay for each year of active service, not to exceed the lesser of two years' basic pay or $15,000. It also provided reduced readjustment pay for members released because of substandard performance. The entitlement in this circumstance was one-half month's basic pay for each year of active service. The act also prohibited service performed in time of war or national emergency declared by Congress after June 28, 1962, from being counted in computing entitlements to readjustment pay. Although the act made both officer and enlisted personnel eligible for readjustment pay, few if any enlisted members ever qualified in practice.

In 1980 Congress, in the Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, 94 Stat. 2835 (1980), substantially changed the ground rules for separation pay. In addition to unifying the separation-pay authority in one provision of Title 10—namely, 10 U.S.C. §1174—DOPMA generally increased the maximum amount of such pay to which affected personnel might be entitled. It also made the computation of entitlements to separation pay dependent on years of active service for all affected personnel, whereas under the preexisting program for "severance pay" for regular officers, the computation had been predicated on years of commissioned service.

In unifying the separation-pay provisions of Title 10, DOPMA, Pub. L. No. 96-513, *id*., referred specifically to three different categories of involuntary separation or discharge that could invoke entitlements to separation pay. First, an officer of a regular component of an armed force with more than five but less than 20 years of active service who was discharged or separated for having twice failed of selection for promotion was entitled to separation pay computed as 10 percent of the product of the officer's years of active service[1] and 12 times terminal monthly basic

[1] In determining the number of years of service on which a separation payment was to be based, the Defense Officer Personnel Management Act originally specified that a part of a year that was six months or more was to be counted as a whole year, and a part of a year that was less than six months was to be disregarded. This rule derived directly from provisions used in determining years of service for computing military retired pay. In 1982, however, Congress changed the rule for retired-pay purposes—but not for separation-pay purposes—to require that years of service be computed by considering any full month of an uncompleted year as one-twelfth of a year if the member had six months or more of an uncompleted year, whereas members

pay, subject to a $30,000 maximum.[2] Second, similar regular officers discharged for substandard performance of duty, or because of misconduct or moral or professional dereliction, or because their retention was not "clearly consistent with the interests of national security," were entitled either to the product of 10 percent of the product of their years of active service and 12 times terminal monthly basic pay, subject to a $30,000 maximum, or half that amount, subject to a $15,000 maximum, as the Secretary of the military department concerned may determine, unless the Secretary further determined that the conditions under which the officer was discharged or separated did not warrant any separation pay at all. Third, and finally, members of non-regular components of the armed forces who were discharged or released from active duty with more than five but less than 20 years of active service, or who were not accepted for an additional tour of duty for which they volunteered, were entitled to separation pay as computed for the regular officers discussed immediately above, as determined by the Secretaries of the various military departments.[3] Members who were discharged or released from active duty at their own request, who were released from active duty for training, or who were, upon discharge or release, immediately eligible for retired or retainer pay were not treated as having been involuntarily released from active duty, with the result that they were not eligible for separation pay under 10 U.S.C. §1174. A member receiving separation pay under 10 U.S.C. §1174—or "severance" or "readjustment" pay under former provisions of Title 10 repealed by the Defense Officer Personnel Management Act—who, subsequent to the adoption of DOPMA, became entitled to retired or retainer pay had retirement or retainer pay reduced by excluding from the computation of that pay the number of years of service on which the member's separation pay was determined, until the amount of the separation payment was recovered. Under special savings provisions, a member on active duty on or before September 14, 1981,[4] was entitled to the new "separation" pay or to the old "severance" or "readjustment" pay, whichever was more advantageous.[5]

As explained in the Report of the House Committee on Armed Services dealing with the new separation-pay authority,

> The committee did not wish the new continuation procedures and implementation of the all-regular career force permitted under S. 1918 [96th Congress, 2d Session (1980), ultimately adopted as DOPMA, Pub. L. No. 96-513, 94 Stat. 2835 (1980)] to go into effect without providing adequate separation pay for officers who might be forced off active duty as a result of this

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with less than six months of a completed year received no credit for any such extra months. The reasons for this restriction were basically budgetary in nature. *Cf.* H.R. Rep. No. 98-107 (Committee on Armed Services), at 213, accompanying H.R. 2969; H.R. Rep. No. 98-352 (Committee of Conference), at 227, accompanying S. 675; and S. Rep. No. 98-213 (Committee of Conference), at 227, accompanying S. 675, 98th Cong., 1st sess. (1983). This disparity of treatment was justified on the grounds that personnel with less than six months of service— in addition to however many years of service they had—were unaffected by the change. The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §923, 97 Stat. 614, 642–44 (1983), changed the rule again—not only for retired-pay purposes but for separation-pay purposes as well—to require that each full month of service in addition to the number of years of service with which a member is credited be counted as one-twelfth of a year and any additional fractional part of a month be disregarded, no matter whether the member had more or less than six additional months of service. See House and Senate reports at pages cited above.

[2] As set out in 10 U.S.C. §1174, officers eligible for such pay include all regular officers discharged under the authority of Chapter 36 of Title 10, United States Code, relating to regular officers, or Sections 580 or 6383 of Title 10, relating to warrant and Navy limited duty officers, respectively, for having twice failed of selection for promotion.

[3] Section 911 of the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §911, 99 Stat. 614, 639–40 (1983), provided a "clarification" to the authority for nondisability-separation pay affecting members of non-regular components of the armed forces. Under the 1984 Authorization Act, 10 U.S.C. §1174(c) was amended to specify that, in order to be eligible for nondisability separation pay, a "member of an armed force other than a regular member" must have "completed at least five years of continuous active duty immediately before ... discharge or release." (For these purposes, a term of active duty is "continuous" if "not interrupted by a break in service of more than 30 days.")

[4] The effective date of the provisions in issue was September 15, 1981, although the Defense Officer Personnel Management Act was enacted December 12, 1980.

[5] See Sections 607 and 631 of the Defense Officer Personnel Management Act, Pub. L. No. 96-513, §§607 and 631, 94 Stat. 2835, 2943, 2954 (1980), as amended by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §531, 98 Stat. 2492, 2527 (1984), reproduced, as amended, at 10 U.S.C. §611 note.

> legislation at an earlier time than would have been likely under present law and short of eligibility for retirement. The committee has, therefore, significantly revised the officer separation-pay procedures in current law and provided for a ceiling of $30,000 for such payment.
>
> The separation pay is a contingency payment for an officer who is career committed but to whom a full military career may be denied. It is designed to encourage him to pursue his service ambition, knowing that if he is denied a full career under the competitive system, he can count on an adequate readjustment pay to ease his reentry into civilian life.
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> Under present law officers separated with more than five, but less than twenty, years of service receive severance pay if they are regular officers, or readjustment pay if they are reserve officers, equal to two months' basic pay for each year of service up to a maximum of $15,000. Under current pay conditions the maximum is received by all officers separated involuntarily with five or more years of service.
>
> In creating a revised payment procedure for those involuntarily separated, the committee has provided for "separation pay" that would be equal to ten percent of annual basic pay for each year of service up to a maximum of $30,000. The committee put a ceiling of $30,000 on separation pay in line with the past practice of Congress in placing monetary ceilings on such payments.
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> Under S. 1918 all of the separation-pay procedures would be provided for in a single proposed new section. The new section would provide for payment of separation pay on the basis of "years of active service" as in present law for readjustment pay for reserve officers. Current law for regular officers is based on commissioned service. The section would provide that should a separated member later become eligible for retired pay, the retired pay would be reduced by excluding from the computation of that retired pay the years upon which the separation pay is based—until the separation pay had been recouped.
>
> The committee believes the revised separation-pay formula in the bill would be more appropriate than the current readjustment- or severance-pay that, in some cases, provides inadequate compensation for those who are separated.[6]

As further explained by the Senate Committee on Armed Services, the new separation-pay provision substantially restated the provisions for "readjustment pay" applicable to reserve personnel under former 10 U.S.C. §687[7] and extended those provisions, as restated, to regular officers. For those officers not able to choose between the new and old systems—that is, for all officers who came on active duty after September 14, 1981, the effective date of the provisions in question—it was estimated that the new separation pay provisions would be less generous for persons with less than 10 years of service but more generous for those with more than 10 years of service.[8]

The National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §501(a)-(d), 104 Stat. 1485, 1549–1550 (1990), made several further changes to the separation pay program. First, the 1991 National Defense Authorization Act, *id*., §501(a)(3), 104 Stat. 1549, made regular enlisted personnel with six or more but less than 20 years of active service eligible for separation pay. [See 10 U.S.C. §1174(b).] Before enactment of the 1991 National Defense Authorization Act, an enlisted member denied the opportunity to reenlist or otherwise terminated during the course of an enlistment had no right to any separation pay whatsoever.

Second, the 1991 National Defense Authorization Act, *id*., §501(c), 104 Stat. 1550, repealed the preexisting limitations on the amount of separation pay to which an individual might be entitled. As previously indicated, the maximum amount of separation pay to which an individual might become entitled before enactment of the 1991

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[6] H.R. Rep. No. 96-1462 (Committee on Armed Services), at 30–31, accompanying S. 1918, 96th Cong., 2d sess. (1980).

[7] Former 10 U.S.C. §687—which provided authority for "readjustment pay" for non-regular officer and enlisted personnel—was repealed by Section 109(a) of the Defense Officer Personnel Management Act, Pub. L. No. 96-513, §109(a), 94 Stat. 2835, 2870 (1980). But see text accompanying footnote 4 to this chapter, above.

[8] S. Rep. No. 96-375 (Committee on Armed Services), at 7–8, accompanying S. 1918, 96th Cong., 1st sess. (1979).

National Defense Authorization Act was either $30,000 or $15,000, depending on the reasons the individual was separated.[9] With enactment of the 1991 National Defense Authorization Act, there is no longer any limitation on the amount of separation pay to which a separated individual—whether an enlisted member or an officer—is entitled. Rather, the amount of separation pay to which a separated member is now entitled is computed as either 10 percent of the product of the member's years of active service and 12 times terminal monthly basic pay or 50 percent of that amount,[10] as determined by the Secretary of the member's military department, provided that, in the case of an officer, the Secretary may determine that the separated officer is, depending on "the conditions under which the officer is discharged," not entitled to any separation pay at all.

Third, the 1991 National Defense Authorization Act, *id*., §501(b), 104 Stat. 1549–1550, increased from five to six the number of years of continuous active service required immediately before discharge or separation for reserves to be entitled to separation pay after involuntary discharge or release from active duty.[11] [See 10 U.S.C. §1174(c)(1).] The same increase was made applicable to regular officers discharged with less than five years of active commissioned service, officers found not qualified for promotion to pay grade O-2 (first lieutenant or lieutenant (junior grade)), chaplains who have lost their professional qualifications, officers separated for substandard performance of duty or for certain other similar reasons, and warrant officers separated during the three-year probationary period immediately following their appointment as warrant officers. [See 10 U.S.C. §1174(a)(2).] Regular enlisted members are also required to have six years of continuous active service for entitlement to separation pay. [See 10 U.S.C. §1174(b)(1).] These changes left regular officers involuntarily discharged or released from active duty for failure of promotion—other than those referred to earlier in this paragraph—as the only officers needing only five years of continuous active service immediately before separation to be entitled to separation pay. [See 10 U.S.C. §1174(a)(1) as in effect before enactment of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §501, 107 Stat. 1547, 1644 (1993).]

Fourth, and perhaps the biggest change to the separation-pay program, the 1991 National Defense Authorization Act, Pub. L. No. 101-510, *id*., §501(d), 104 Stat. 1550, provided that, "[a]s a condition of receiving separation pay," a member otherwise eligible for that pay under 10 U.S.C. §1174 must "enter into a written

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[9] See text accompanying footnote 2 to this chapter and following.

[10] Regular officers separated for failure of promotion under Chapter 36 of Title 10, United States Code, are entitled to the full 10 percent of the member's years of service multiplied by 12 times terminal monthly basic pay [see 10 U.S.C. §1174(a)(1)], whereas officers discharged with less than five years of active commissioned service, officers found not qualified for promotion to pay grade O-2 (first lieutenant or lieutenant (junior grade)), chaplains who have lost their professional qualifications, officers separated for substandard performance of duty or for certain other similar reasons, and warrant officers separated during the three-year probationary period immediately following their appointment as warrant officers may, at the discretion of the "Secretary concerned," be separated either with the full amount computed as above, with 50 percent of that amount, or with no separation pay whatsoever [see 10 U.S.C. §1174(a)(2)]. Enlisted members involuntarily separated or otherwise released from active duty are normally entitled to the full 10 percent of the member's years of service multiplied by 12 times terminal monthly basic pay, although members discharged "under criteria prescribed by the Secretary of Defense" are entitled to only 50 percent of that amount, provided that the "Secretary concerned" may determine that a member is, because of the conditions under which he or she is discharged or otherwise separated, not entitled to any separation pay at all. The amount of separation pay to which reserves are entitled upon involuntary separation or non-acceptance for an additional tour of duty for which they have volunteered is determined the same way as for regular officers involuntarily separated or otherwise released from active duty.

[11] Reserves with more than five years of continuous active service on November 5, 1990, the date of enactment of the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, 104 Stat. 1485 (1990), are exempted from the increase from five to six years of continuous active service as a condition of entitlement to separation pay, as are officers discharged with less than five years of active commissioned service, officers found not qualified for promotion to pay grade O-2 (first lieutenant or lieutenant (junior grade)), chaplains who have lost their professional qualifications, officers separated for substandard performance of duty or for certain other similar reasons, and warrant officers separated during the three-year probationary period immediately following their appointment as warrant officers. See National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, *id*., §501(e)(2), 104 Stat. 1550.

agreement with the Secretary concerned to serve in the Ready Reserve of a reserve component for a period of not less than three years following the person's discharge or release from active duty."[12] [See 10 U.S.C. §1174(e).]

The amendments to the separation-pay program were adopted in response to Congress's perception that there would be substantial "reductions in [military] force over the next 5 years"[13] and that "[a] principal component of the package of transition assistance benefits necessary in a force-drawdown environment is a modification of existing law with respect to the payment of separation pay."[14] As the House Armed Services Committee went on to note:

> ... Currently, separation pay is authorized for regular and reserve officers and reserve enlisted members with five or more, but fewer than 20, years of active service who are involuntarily separated or discharged from active duty (or who are not accepted for an additional tour of active duty for which they have volunteered in the case of reserve members). Regular enlisted members are the only element of the regular and reserve components serving on active duty who are not eligible for separation pay upon involuntary separation. It is important that this inequity be redressed because the potential exists that regular enlisted members may be involuntarily separated as the size of the force is reduced. Moreover, because the present value of separation pay under current computational limits has been eroded over time, other changes to the separation pay mechanism have become necessary.
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> ... [These changes are] consistent with the notion that separation pay is designed to compensate career oriented service members who have been denied a career opportunity because of circumstances beyond their control.[15]

The National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §501(a), 107 Stat. 1547, 1644 (1993), increased from five to six the number of years of active service that all regular officers involuntarily discharged or released from active duty for failure of promotion must have before being eligible for separation pay. As explained by the Senate Armed Services Committee, the change was made "to standardize the eligibility point for separation pay for all service members ... [at] six years."[16] [17] [See 10 U.S.C. §1174(a).]

The Hubbard Act, enacted in 2008, added a special rule for members receiving a sole survivorship discharge. Members who receive a sole survivorship discharge, whether voluntary or involuntary, including those with fewer than six years of active service immediately before discharge, are authorized involuntary separation pay.[18]

The Supplemental Appropriation Act of Fiscal Year 2009 requires the Secretary, in making deductions from retired or retainer pay for individuals who previously received certain separation pay or incentives, to take into account the financial ability of the member to pay and to avoid undue financial hardship on the member and

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[12] The three-year obligation is in addition to any other obligated service an affected member has.
[13] S. Rep. No. 101-384 (Committee on Armed Services), at 173, accompanying S. 2884, 101st Cong., 2d sess. (1990).
[14] H.R. Rep. No. 101-665 (Committee on Armed Services), at 269, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).
[15] H.R. Rep. No. 101-665 (Committee on Armed Services), at 269, accompanying H.R. 4739, 101st Cong., 2d sess. (1990). See S. Rep. No. 101-384 (Committee on Armed Services), at 173, accompanying S. 2884, 101st Cong., 2d sess. (1990):

> ... The committee believes these [proposed separation pay] provisions provide a safety net to personnel who had planned on a career in the military but who may be required to leave active duty before they become eligible to retire. *Cf.* H.R. Rep. No. 101-923 (Committee of Conference), at 603, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).

[16] S. Rep. No. 103-112 (Committee on Armed Services), at 153, accompanying S. 1298, 103d Cong., 1st sess. (1993). See H.R. Rep. No. 103-200 (Committee on Armed Services), at 275, accompanying H.R. 2401, 103d Cong., 1st sess. (1993); cf. H.R. Rep. No. 103-357 (Committee of Conference), at 669–70, accompanying H.R. 2401, 103d Cong., 1st sess. (1993).
[17] See paragraph text accompanying footnote 11 to this chapter, above, concerning the disparity in treatment of different classes of personnel before adoption of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §501(a), 107 Stat. 1547, 1644 (1993).
[18] Hubbard Act, Pub.L.No. 110-317, Sec.3, 122 Stat. 3526, 3527 (2008).

the member's dependents until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid. [19]

Current rate of payment authorized: In the normal case, the amount of separation pay to which a qualified member is entitled upon discharge is 10 percent of the product of the member's years of active service and 12 times terminal monthly basic pay.[20]

Cost: For the cost of nondisability separation pay from 1972 to 2016, see tables III-6A–B, below.

Table III-6A. Nondisability Separation Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	783	11,372
1973	670	7,443
1974	632	9,275
1975	970	14,613
1976	2,065	30,137
1977	1,283	15,957
1978	673	9,715
1979	1,253	18,597
1980	913	13,530
1981	738	14,775
1982	302	6,682
1983	543	13,335
1984	996	26,371
1985	1,177	32,600
1986	1,418	38,820
1987	2,163	61,937
1988	2,296	66,833
1989	2,230	65,138
1990	2,333	68,535
1991	8,002	95,092
1992	9,058	115,078
1993	11,400	171,884
1994	10,429	143,958
1995	9,082	127,878
1996	12,272	196,497
1997	12,978	209,468
1998	7,685	104,907
1999	8,491	139,590
2000	5,934	94,478
2001	4,929	67,728
2002	3,450	57,935
2003	6,477	119,819
2004	4,931	90,277
2005	12,620	120,017

[19] Supplemental Appropriation Act, 2009, Pub. L. No. 111-32, Title III, Sec. 318(a), 123 Stat. 1859, 1873 (2009).
[20] See footnote 10 hereof, above, together with associated text for exceptions to the general rule.

Fiscal Year	Total Personnel	Cost ($000)
2006	15,097	257,175
2007	10,817	226,213
2008	28,642	150,952
2009	8,140	356,385
2010	11,878	460,105
2011	15,033	570,320
2012	21,151	864,333
2013	20,377	704,820
2014	21,956	1,120,161
2015	19,238	920,184
2016[1]	13,324	606,150

[1] Estimate.

Table III-6B. Readjustment Pay, 1972–87

Fiscal Year	Total Personnel	Cost ($000)
1972	3,593	43,142
1973	1,252	15,715
1974	4,625	65,061
1975	1,426	20,592
1976	3,035	44,002
1977	1,331	19,765
1978	755	11,205
1979	691	10,706
1980	469	7,031
1981	268	4,726
1982	267	6,699
1983	291	7,340
1984	764	15,323
1985	576	15,917
1986	618	17,223
1987	626	17,391

Note: Data on readjustment pay entitlements after 1987 are merged into separation pay entitlements.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011-17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011-17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011-17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011-17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter III.C.2.
Disability Severance Pay

Legislative Authority: 10 U.S.C. §1212.

Purpose: To authorize a special lump-sum payment to be made to members of the armed forces separated from active military service because of minor physical disabilities that, while substantial enough to adversely affect their ability to perform the military duties of their respective offices or grades, are not so severe as to seriously impair their civilian earning capacity, in order to assist such personnel in their transitions back to civilian life. Disability severance pay stands in contrast to disability retired pay, which is authorized for more severe physical disabilities.

Background: The practice of awarding compensation through a veterans' pension system to persons disabled by military service spans the existence of the United States as a nation. The veterans' pension system has, since 1861, been complemented by a military disability retirement system. Until 1949, the military system by and large covered only regular officers and career enlisted personnel. The Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §403, 63 Stat. 802, 820–21 (1949), revised and broadened the military disability-retirement system so as in general to place all military personnel—career and non-career, officer and enlisted, regular and reserve—within its scope. In view of this expansion in the disability-retirement system, it was considered necessary to draw a dividing line between "real" or "substantial" disabilities warranting lifetime disability retired pay and less substantial, "minor" disabilities not warranting such pay. The Career Compensation Act of 1949, ch. 681, *id.*, established the dividing line at 30-percent disability.

Though the justification for nondisability severance pay in the Career Compensation Act of 1949, ch. 681, *id.*, was that lifetime retired pay was not warranted in the case of personnel separated with disabilities deemed to be "minor" in nature, Congress recognized that such separations are nevertheless involuntary, that affected personnel are forced to reintegrate themselves into the mainstream of civilian life, and that fair and considerate treatment of such personnel was thus required, at least in part in order to assure individual members of the armed forces that, if they are ever disabled in the service of their country, they will not be left to cope with their resulting separations from the service on their own. Accordingly, the Career Compensation Act of 1949, as amended over time, permitted a lump-sum severance payment to personnel with less than 20 years of active service who were separated from active service because of service-connected disabilities that, though rated as less than 30 percent, made them physically unable to perform the military duties of their respective offices or grades.[1] [2] Disabled personnel with 20 or more years of service qualify for disability retired pay[3] even if their degree of disability is less

[1] See 10 U.S.C. §§1203 and 1206 generally for an explication of the conditions of entitlement to disability severance pay.

[2] Section 1201(3) of Title 10, United States Code, 10 U.S.C. §1201(3), specifically requires that a member have either 20 years of service or a disability rating of at least 30 percent to be eligible for disability retired pay. The 20-year requirement would appear to rule out the possibility that members of the armed forces with at least 15 but less than 20 years of service who have a disability rating of less than 30 percent may be eligible for disability retirement pursuant to the provisions of Section 4403 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992), as amended by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §561(a), 107 Stat. 1547, 1667 (1993), set out as a note under 10 U.S.C. §1293, which provides temporary early-retirement authority during the "active force drawdown period", i.e., October 23, 1992, to October 1, 1999, for members of the armed forces with at least 15 but less than 20 years of service. As a practical matter, however, the Secretaries of the military departments would appear to have sufficient discretionary authority under the early retirement program authorized by Section 4403 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992), as amended, see Section 4403(d) of the 1993 Authorization Act in particular, to grant regular retirement to members with at least 15 but less than 20 years of service who have a disability rating of less than 30 percent. Thus, there is a possibility that some disabled members of the armed forces with less than 20 years of service and a disability rating of less than 30 percent may nevertheless be eligible for retirement pay rather than having to make do with disability severance pay.

[3] See, e.g., 10 U.S.C. §§1201(3)(A) and 1204(4)(A).

than 30 percent, on the theory that, because of their length of service, they would in any event be eligible for voluntary retirement.[4]

Disability severance pay is computed at the rate of two months' basic pay for each year of active service, not to exceed two years' basic pay.[5] To prevent a double benefit to any given individual, the Department of Veterans Affairs[6] is required to deduct an amount equal to the disability severance payment made to that individual from any veterans' disability compensation to which the individual may later become entitled for the same disabilities.[7]

The National Defense Authorization Act for Fiscal Year 2008 increased from 12 to 19 the maximum number of years of service authorized to be used as a multiplier to determine military disability severance pay. It provided minimum years of service for purposes of such determination, and prohibited any deduction from such pay due to payments received as veterans' disability compensation in the case of pay received by a member for a disability incurred in the line of duty in a combat zone or in combat-related operations as designated by the Secretary.[8]

Cost: For the cost of disability severance pay from 1972 to 2009, see table III-7, below.

Table III-7. Disability Severance Pay, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	8,403	$21,534	291	$2,050	8,112	$19,484
1973	5,711	18,906	202	2,040	5,509	16,866
1974	4,873	13,997	171	1,945	4,702	12,052
1975	5,248	18,959	180	2,021	5,068	16,938
1976	5,197	20,177	146	1,949	5,051	18,228
1977	5,586	25,521	93	1,489	5,493	24,032
1978	4,664	20,544	109	1,728	4,555	18,816
1979	4,212	24,568	101	1,644	4,111	22,924
1980	1,301	17,925	91	1,809	3,010	16,086
1981	2,637	16,436	57	1,021	2,580	15,415
1982	2,638	20,026	74	1,652	2,564	18,374
1983	2,768	23,414	90	1,479	2,678	21,935
1984	3,882	35,991	92	1,774	3,790	34,217
1985	4,847	49,403	82	1,884	4,765	47,519
1986	5,928	55,073	103	2,347	5,825	52,726
1987	7,907	70,682	229	6,185	7,678	64,497
1988	9,569	93,219	243	6,635	9,326	86,584
1989	10,536	98,616	163	4,041	10,373	94,575

[4] See Chapter III.B.3., "Disability Retired Pay," above.
[5] 10 U.S.C. §1212(a).
[6] The Veterans Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, 102 Stat. 2635 (1988). Pursuant to that act, from and after March 15, 1989, all references in any Federal law, Executive Order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. Veterans Affairs Act, Pub. L. No. 100-527, *id*., §10, 102 Stat. 2640–2641; see 38 U.S.C.A. §201 note.
[7] 10 U.S.C. §1212(c).
[8] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title XVI, Subtitle D, Sec. 1646, 122 Stat. 3, 472 (2008).

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1990	9,304	85,211	168	4,697	9,136	80,514
1991	10,951	116,861	172	5,911	10,779	110,950
1992	10,294	111,238	177	6,203	10,117	105,035
1993	11,079	146,471	196	7,774	10,883	138,697
1994	10,042	134,878	156	5,935	9,886	128,943
1995	9,471	130,093	167	5,784	9,304	124,309
1996	9,682	152,635	167	6,688	9,515	145,947
1997	9,115	147,145	172	7,680	8,943	139,465
1998	9,394	158,162	208	9,057	9,186	149,105
1999	9,586	159,165	1,419	23,787	8,167	135,378
2000	8,142	152,111	230	10,669	7,912	141,442
2001	7,401	141,218	204	10,342	7,197	130,876
2002	6,247	121,586	147	7,190	6,100	114,396
2003	7,140	144,657	299	16,700	6,841	127,957
2004	6,395	137,891	247	12,133	6,148	125,758
2005	8,296	88,265	274	12,509	8,022	75,756
2006	9,293	215,271	233	13,966	9,060	201,305
2007	6,571	186,557	247	14,622	6,324	171,935
2008	6,504	87,919	192	9,015	6,312	78,904
2009	4,346	128,959	135	7,232	4,211	121,727
2010	5,184	156,775	122	5,663	5,062	151,112
2011	6,498	141,263	142	7,873	6,356	133,390
2012	8,527	241,765	205	12,969	8,322	228,796
2013	10,444	351,918	213	13,284	10,231	338,634
2014	7,816	284,157	173	12,762	7,643	271,395
2015	8,663	310,725	194	15,218	8,469	295,507
2016[1]	8,280	302,388	172	14,000	8,108	288,388

[1] Estimate

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter III.C.3.
Unemployment Compensation

Legislative Authority: 5 U.S.C. §§8521–8523, 8525.[1]

Purpose: To provide members of the uniformed services with unemployment insurance similar to that for which they would have been eligible in the private sector had they not entered federal service.

Background: The provision of unemployment insurance as a matter of law is of relatively recent origin in the United States. The first measure providing a form of such protection was adopted by Wisconsin in 1932. The present "federal-state" unemployment compensation system—which actually is not a "system" but a collection of systems that parallel one another only in their basic concept—came into being as a result of the Social Security Act of 1935, ch. 531, Pub. L. No. 74-271, 49 Stat. 620 (1935). The Social Security Act did not directly provide for the payment of unemployment compensation; it was designed to persuade the states[2] to adopt laws of their own providing for unemployment "insurance." To this end, the act imposed a 3-percent federal unemployment tax on the first $3,000 earned by employees each year. While the tax was paid by employers, each employer was permitted to offset up to 90 percent of federal unemployment tax liability for amounts paid to an approved state unemployment compensation program. Thus, the states could establish programs and levy taxes up to 2.7 percent of taxable payrolls without any additional tax burden on employers. The federal tax achieved its objective: every state had an unemployment compensation law within two years after it was imposed.

The actual administration of the "federal-state" unemployment compensation system remains a state function. Subject to meeting the minimum standards needed to qualify its program for the federal unemployment tax credit, each state determines eligibility conditions, sets the level and duration of benefits, and makes all payments. The federal unemployment tax on employers is 6.2 percent of the first $7,000 earned by each employee during a year. Against this tax, an employer gets a tax credit for "contributions paid by him into an unemployment fund maintained ... under the unemployment compensation law of a State which is certified" as meeting specified federal standards,[3] but the credit is limited to 5.4 percent of taxable wages. The portion of the federal tax actually collected by the federal government—0.8 percent of taxable wages for most states—pays the cost of administering federal and state unemployment programs and employment services, as well as half of the benefits paid under the Federal-State Extended Benefits program. Some funds collected by the federal government are put in a special loan account from which states may get advances.

The "federal-state" system covers only workers for whom an employer pays the unemployment tax. Since the federal government does not have to pay the tax, its employees were not covered by the system until 1954. At that time, Congress determined that "the Federal Government should not be in the position of providing less favorable conditions of employment than are required of private employers."[4] The Social Security Act Amendments of 1954, ch. 1206, Pub. L. No. 83-761, 68 Stat. 1052 (1954), accordingly created a program under which a former federal civilian employee was eligible for state unemployment compensation in the same amount, on the same terms, and under the same conditions as would apply if the employee's federal service and wages had been included as employment and wages under the law of the state of the employee's last official duty station. The United States pays each state the additional cost resulting from the payment of unemployment compensation under the program for former federal civilian employees.

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[1] Unemployment compensation for civilian and military members of the Federal Government is dealt with generally at 5 U.S.C. §§8501–8525. Unemployment compensation for "ex-servicemen" is dealt with specifically at 5 U.S.C. §§8521–8525. (The federal program dealing with unemployment compensation for ex-service members is overseen by the United States Department of Labor and is administratively referred to as the "UCX" program.)

[2] For the purposes of this chapter, the term "states" includes the District of Columbia, Puerto Rico, and the Virgin Islands, as well as the 50 states.

[3] Section 3301(a)(1) of the Internal Revenue Code of 1986, 26 U.S.C. §3301(a)(1).

[4] S. Rep. No. 1794 (Committee on Finance), at 6, accompanying H.R. 9709, 83d Cong., 2d sess. (1954).

As is the case with civilian employees, the United States does not have to pay unemployment tax for military personnel. Since the program created by the Social Security Act amendments of 1954, ch. 1206, *id*., covered only civilian employees, military members remained unprotected by unemployment insurance. The Servicemen's Readjustment Act of 1944, ch. 268, Pub. L. No. 78-346, §900, 58 Stat. 284, 297 (1944), had authorized a special benefit of $20 a week for up to 52 weeks to unemployed veterans of World War II, and the Veterans' Readjustment Assistance Act of 1952, ch. 875, Pub. L. No. 82-550, §401(b), 66 Stat. 663, 684 (1952), had authorized the payment of $26 a week for up to 26 weeks to unemployed veterans of the Korean conflict. Even though these allowances had served the same purpose as unemployment compensation, they were primarily intended to aid former members of the armed services in readjusting to civilian life. In any event, except for some residual application, neither program was in operation after February 1, 1955, when the end of the Korean conflict was proclaimed.

Congress recognized in 1958 that the lack of unemployment insurance protection for military personnel did not square with its policy that the federal government should not provide less favorable conditions of employment than are required of private employers. To remedy this situation, the Ex-Servicemen's Unemployment Compensation Act of 1958, Pub. L. No. 85-848, §3, 72 Stat. 1087, 1087–1088 (1958), created a program of Unemployment Compensation for Ex-Servicemen (UCX) that is very similar to the program for federal civilian employees. Congress described the purpose of the UCX program in these terms:

> Such a provision does not constitute a special reward for military service, but merely accords the individual a protection he most likely would have had if he had not entered military service.[5]

The Ex-Servicemen's Unemployment Compensation Act of 1958, Pub. L. No. 85-848, *id*., provided that a former service member was eligible for state unemployment compensation in the same amount, on the same terms, and under the same conditions as would apply if the member's active military service and pay and allowances had been included as employment and wages under the law of the state in which the former member first filed a claim. Notwithstanding this "same terms" and "same conditions" language, until recently the UCX program differed in one respect from state programs. When a person voluntarily quits a job, the person is disqualified in whole or in part for unemployment benefits under all state laws. Until 1981 the "voluntariness" factor was not material under the UCX program—a former service member remained eligible for unemployment benefits even if the member could have kept the job—that is, even if the member could have continued on active duty, whether by reenlisting, extending an enlistment, or whatever—had the member chosen to do so. The Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, §2405, 95 Stat. 357, 876 (1981), changed this preexisting rule by adding, as an eligibility requirement for ex-service members, a provision that an individual seeking unemployment benefits "did not resign or voluntarily leave the service."[6]

This new, "non-voluntary" termination restriction on the entitlement of unemployed ex-service members to unemployment compensation soon proved to be overly restrictive, and Congress in the Miscellaneous Revenue Act of 1982, Pub. L. No. 97-362, §201, 96 Stat. 1726, 1732 (1982), effectively deleted it. Under law in effect before enactment of the Emergency Unemployment Compensation Act of 1991, Pub. L. No. 102-164, 105 Stat. 1049 (1991), an unemployed ex-service member was entitled to unemployment compensation (UCX) if unemployed for the requisite period of time and, while in the armed

[5] S. Rep. No. 2375 (Committee on Finance), at 2, accompanying H.R. 11630, 85th Cong., 2d sess. (1958).

[6] For eligibility, an individual was required to have had 365 or more days of continuous service (unless that service was terminated because of a "service-incurred injury or disability"), must have been released or discharged from the service under honorable conditions, could not have resigned or voluntarily left the service, and could not have been released or discharged for cause. See 5 U.S.C. §8521(a)(1) as in existence before amendments effected by the Miscellaneous Revenue Act of 1982, Pub. L. No. 97-362, §201, 96 Stat. 1726, 1732 (1982), discussed in text below.

forces, had active service (not including active duty in a reserve status unless for a continuous period of 180 days or more) in the armed forces ... if with respect to that service—

(A) the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(B)(i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

(ii) the individual was discharged or released before completing such term of active service—

(I) for the convenience of the Government under an early release program,

(II) because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability,

(III) because of hardship (including pursuant to a sole survivorship discharge, as that term is defined in section 1174(i) of title 10), or

(IV) because of personality disorders or ineptitude but only if the service was continuous for 365 days or more; ....

[See 5 U.S.C. §8521(a)(1) as in effect prior to enactment of the Emergency Unemployment Compensation Act of 1991, Pub. L. No. 102-164, 105 Stat. 1049 (1991).]

The House Committee on Ways and Means detailed the history of the UCX program for unemployed ex-service members as follows:

> Prior to enactment of the Omnibus Budget Reconciliation Act of 1981 [Pub. L. No. 97-35, 95 Stat. 357 (1981)], Federally funded unemployment benefits were provided to former military personnel upon their separation from military service under the Unemployment Compensation for Ex-Servicemembers (UCX) program, if the ex-servicemember met the eligibility requirements of the State in which he or she applied for unemployment compensation. The military service of an individual qualified as wages or employment in the determination of eligibility for UCX benefits only if the person had (1) served 365 or more continuous days of active duty (unless separated after a shorter period because of a service-incurred injury or disability) and (2) was separated under other than dishonorable conditions. Leaving the military at the end of a term of enlistment, even if the person was eligible to reenlist, was not considered a "voluntary quit" under State law in the determination of eligibility for UCX benefits.
>
> Section 2405 of the Budget Reconciliation bill ... established new requirements for entitlement to benefits under the UCX program. Effective for separations from military service occurring on or after July 1, 1981, individuals: (1) must have been discharged or released under honorable conditions: (2) must not have resigned or voluntarily left the service, which means they must not have been able to reenlist; and 3) must not have been released or discharged "for cause" as defined by the Department of Defense. These new requirements apply to individuals who left federal military service on or after July 1, 1981, but only for weeks of unemployment that began on or after August 13, 1981, the date of enactment of the Reconciliation bill. Preliminary estimates indicate that some 35,000 individuals will be denied UCX benefits in fiscal 1981 and over 110,000 individuals will be denied benefits in fiscal 1982 as a result of these new requirements.
>
> The new requirements subject ex-servicemembers to stricter unemployment eligibility standards than civilians and, as a result, inappropriately and unnecessarily prevent a significant number of ex-servicemembers who cannot find civilian jobs immediately after leaving the service from receiving unemployment benefits. Furthermore,

> the new requirements, by providing UCX benefits only to those who are not acceptable for reenlistment, penalize those individuals who satisfactorily fulfill their military obligation and are therefore offered the opportunity to reenlist but choose to leave the service.
>
> Section 204 [of the Miscellaneous Revenue Act of 1982, Pub. L. No. 97-362, *id*.] repeals the new requirements enacted as part of the Budget Reconciliation Act and replaces them with eligibility requirements based on prior law but modified so as to address concerns and criticisms that have been expressed with regard to the UCX program....
>
> The provisions in this section, while significantly reducing Federal expenditures for unemployment benefits paid to ex-service members under the UCX program, will provide unemployment assistance to those who complete their term of duty satisfactorily, and therefore have the opportunity to reenlist, under the same terms and conditions as those who are not acceptable for reenlistment.[7]

The Miscellaneous Revenue Act of 1982, Pub. L. No. 97-362, *id*., §201(c), 96 Stat. 1732, also changed the unemployment compensation standards for the enlarged population of former service members eligible for unemployment compensation. Under the standards adopted by that act, unemployed ex-service members were required to wait four weeks, rather than the one week required for unemployed civilians, before they became eligible to collect unemployment benefits. The reason given was the assumed availability of severance pay and other separation benefits for ex-service members. In addition, unemployment benefits were authorized for ex-service members for a maximum of 13 weeks, as opposed to the 26 weeks authorized for unemployed civilians. No reason was articulated for this difference in treatment, but the discussion of the high cost of the program during hearings on the legislation presumably influenced this decision.

The Emergency Unemployment Compensation Act of 1991, Pub. L. No. 102-164, §301, 105 Stat. 1049, 1059 (1991), amended prior provisions of law in two regards. Section 301(b) of the act, 105 Stat. 1059, decreased the active-service requirement for receipt of unemployment benefits by unemployed ex-service members from 180 days to 90 days; and Section 301(a), 105 Stat. 1059, repealed 5 U.S.C. §8521(c), which provided that unemployed ex-service members could not receive unemployment benefits before the expiration of the four-week period following separation and limited the period for which benefits to ex-service members were authorized to 13 weeks. With the latter change, unemployed ex-service members and unemployed civilians are now treated the same with respect to the time they have to wait before becoming eligible for unemployment benefits and the period for which such benefits are authorized.[8] The reasons for the changes to the unemployment compensation program for ex-service members had to do both with anticipated drawdowns in military strength and a felt need to assist in the transition of ex-service members who had served in Operation Desert Storm back into the civilian economy. As explained by the House Ways and Means Committee:

> The provisions restoring ex-servicemembers' benefits to their pre-1981 levels when ex-military personnel were treated the same as civilians probably helps close to 50,000 ex-military personnel in 1992. As under present law [as of October 1991], those who leave the military who have an opportunity to reenlist are eligible for benefits when they return home. The Committee believes that leaving the military after a period of enlistment is not equivalent to quitting a civilian job, and therefore, these ex-military personnel should get unemployment benefits to aid them while they look for civilian work.

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[7] H.R. Rep. No. 97-404 (Committee on Ways and Means), at 30–31, accompanying H.R. 4961, 97th Cong., 1st sess. (1981) (emphasis and punctuation as in H.R. Rep. No. 97-404); *cf.* H.R. Rep. No. 97-929 (Committee of Conference), at 48, accompanying H.R. 4717, 97th Cong., 2d sess. (1982).

[8] The same changes were adopted in an earlier enactment also titled Emergency Unemployment Compensation Act of 1991, Pub. L. No. 102-107, §8, 105 Stat. 541, 546 (1991), but none of the provisions of that act ever became effective because of conditions on effectiveness of the entire act incorporated as Section 10(b) of the Act, *id*., 105 Stat. 548.

> In addition, the bill [H.R. 3575, 102d Congress, 1st Session (1991), ultimately adopted as Pub. L. No. 102-164] would reduce the number of continuous days of service required of activated reservists from 180 to 90 days, which would help some returning veterans of Operation Desert Storm to receive unemployment benefits.

[See H.R. Rep. No.102-273 (Committee on Ways and Means), at 4, accompanying H.R. 3575, 102d Cong., 1st sess. (1991).][9]

The National Defense Authorization Act for Fiscal Year 2016 increases from 90 to 180 days the number of continuous days of Active Duty required to be performed by reserve component members for that duty to be considered satisfactory federal service for purposes of unemployment compensation for ex-service members.[10]

While the amount of unemployment compensation differs among states, all states employ basically the same method of calculating the weekly unemployment compensation amount. It is computed as a fraction, or percentage, of the wages earned by the unemployed person during base period employment, with the amount so computed being raised if it is less than a specified minimum figure or lowered if it is more than a specified maximum figure. But the fractions, percentages, base periods, minimums, and maximums used in the calculations vary considerably among the states and are frequently changed by state law.

The "wages" now used to calculate the unemployment compensation of former service members under the UCX program are "all pay and allowances, in cash and in kind, for Federal military service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service,"[11] averaged by length of service and dependency status for each pay grade. The United States Department of Labor annually updates the amount of these "wages" in the Federal Register—in a table referred to as Schedule of Remuneration for the UCX Program—for use by state employment offices in determining the amount of unemployment compensation to which an unemployed ex-service member is entitled.[12] Thus, for an unemployed ex-service member who left service in, for example, pay grade E-5, the amount of "wages" on which an unemployment compensation calculation would be based are the "wages" set out for pay grade E-5 in the Schedule of Remuneration for

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[9] Much the same point was made by the Senate Armed Services Committee in its report on the National Defense Authorization Act for Fiscal Years 1992 and 1993:

> During its debate on the National Defense Authorization Act for Fiscal Year 1991, the Senate passed a provision to provide separating military personnel the same unemployment compensation coverage that is provided for civilian personnel. Currently, separating military personnel are authorized 13 weeks of unemployment benefits after four weeks of unemployment. Civilians are authorized 26 weeks of unemployment compensation after one week of unemployment.
>
> The Senate-passed provision was not enacted last year, because the committee agreed to a request by the Senate Finance Committee and the House Ways and Means Committee to defer the provision for consideration by these two committees as a matter falling under their jurisdiction. The committee notes that the Senate Finance Committee has since held a hearing on this matter. The committee urges the Senate Finance Committee to take favorable action in concert with the House Ways and Means Committee to correct the unemployment compensation disparity this year. Military personnel and their families deserve the same safety net as civilian personnel and their families, especially during this period of substantial reductions in military strength.

S. Rep. No. 102-113 (Committee on Armed Services), at 227, 102d Cong., 1st sess. (1991).

[10] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title V, Subtitle B, Sec. 513, 129 Stat. 726, 809 (2015).

[11] 5 U.S.C. §8521(a)(2).

[12] The Schedule of Remuneration for the UCX Program is found at 20 Code of Federal Regulations 614.12. Under the Schedule of Remuneration for the UCX Program current in early 2004, the monthly pay and allowances on which unemployment compensation would be based for an individual member applying for compensation range from a high of $14,857 for an officer in pay grade O-10 to $2,245 for an enlisted member in pay grade E-1.

the UCX Program and not on the actual wages the member received. The federal government pays each state the additional cost resulting from the payment of unemployment compensation under the UCX program.

The UCX program for ex-service members is also affected by the way different states treat unused leave payments, retired and retainer pay, and severance pay. Unused leave payments are considered as current wages and, as such, bar the receipt of or cause a reduction in unemployment compensation in a number of states; other states treat such payments as payments for past services and thus as having no effect on unemployment compensation. Retired or retainer pay, on the other hand, is treated as current wages in some states, thereby reducing—in some cases, eliminating—unemployment compensation benefits, and as payment for past services in others. There is a similar disparity of treatment as regards severance pay, with some states treating such pay as current wages and others as payment for past services.[13]

Cost: For the cost of unemployment compensation from 1971 to 2016, see table III-8, below.

Table III-8. Unemployment Compensation, 1971–2016

Calendar Year	Total Personnel	Cost ($000,000)
1971	413,926	$321
1972	346,953	316
1973	230,327	196
1974	248,587	231
1975	303,549	387
1976	281,547	403
1977	234,081	339
1978	175,168	248
1979	181,440	262
1980	187,469	295
1981	99,834	232
1982	30,092	55
1983	116,816	180
1984	89,967	134
1985	86,742	129
1986	90,504	133
1987	79,727	122
1988	79,525	124
1989	65,349	104
1990	79,164	132
1991	92,368	167
1992	171,405	544
1993	126,647	498
1994	97,148	347
1995	78,834	279
1996	68,014	241
1997	58,131	208
1998	47,570	172
1999	42,024	166
2000	37,664	154

[13] The reader is referred to the unemployment compensation laws of the different states.

Calendar Year	Total Personnel	Cost ($000,000)
2001	41,565	184
2002	44,810	232
2003	53,653	297
2004	71,448	425
2005	31,728	423
2006	38,223	540
2007	71,682	535
2008	58,023	470
2009	73,035	605
2010	142,992	932
2011	164,658	1,007
2012	149,421	971
2013	160,525	829
2014	134,694	622
2015	88,273	521
2016[1]	61,122	391

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter III.C.4.
Temporary Voluntary Separation Incentives

Legislative Authority: 10 U.S.C. §§1174a and 1175 and Section 4403 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992), as amended, set out as a note under 10 U.S.C. §1293.

Purpose: To provide special incentives for members of the armed forces to voluntarily agree to separate from active-duty components.

Background: In the aftermath of the Cold War, and in light of the expected consequent drawdown in active-duty strength levels, the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, 105 Stat. 1290 (1991), established two programs to encourage members of the active-duty forces—both regular and reserve components—to voluntarily separate from active duty. One of the programs—adopted by Section 662(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, *id*., §662(a), 105 Stat. at 1396–1398, codified at 10 U.S.C. §1175, and generally referred to the "voluntary separation incentive" program, or "VSI"—provides a temporary, variable-length annuity to members separating from the active-duty forces and affiliating with reserve components. The second program—adopted by Section 661(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, *id*., §661(a), 105 Stat. at 1394–1395, codified at 10 U.S.C. §1174a, and generally referred to as the "special separation benefit" program, or "SSB"—provides enhanced separation pay for members of the active-duty services voluntarily agreeing to terminate all connection with the armed forces. The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992), as amended,[1] established a third program of separation incentives that authorized early retirement for members of the armed forces with at least 15 but less than 20 years of service who agreed to retire before October 1, 1999.

Under the voluntary separation incentive program (VSI)—the program aimed at providing incentives to members of the active-duty services to separate from active duty and affiliate with reserve components—the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, *id*., §662(a), 105 Stat. at 1396–1398, authorized the Secretary of Defense to "provide a financial incentive to members of the Armed Forces ... for voluntary appointment, enlistment, or transfer to a Reserve component ... for the period of time the member serves in a reserve component." As originally enacted, the amount of the annual VSI payment authorized was to be computed by multiplying the product of the member's terminal monthly basic pay and 12 by the product of the member's number of years of service at separation and 2.5 percent, and subtracting from that amount the sum of any basic pay the member subsequently received for active or reserve service as a member of a reserve component and any compensation the member received for inactive-duty training during the year. A member entitled to an annual VSI payment computed as above was to be paid that amount for twice the member's years of service at separation as long as the member maintained membership in a reserve component. A member of the active-duty force was eligible to participate in the VSI program if the member had served on active duty for at least six but less than 20 years, had served at least five years of continuous active duty immediately before the date of separation, and met such other requirements as the Secretary of Defense might provide. A member participating in the VSI program who subsequently became entitled to retired or retainer pay was to have his or her entitlement to retired or retainer pay reduced by an amount based on the service for which the member received the VSI until the total amount deducted equaled the total VSI the member received.

[1] Set out as a note under 10 U.S.C. §1293.

Under the special separation benefit program (SSB)—the program aimed at providing incentives to members of the active-duty services to terminate all connection with the armed forces—the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, *id*., §661(a), 105 Stat. at 1394–1395, directed the Secretaries of each of the military departments to develop "special separation benefits program[s]" under which an "eligible member" could request separation and, upon approval of the request, be "released from active duty or discharged." For the purpose of each departmental "special separation benefit program," a member of that department's armed force on active duty was eligible for the program only if the member had served on active duty for more than six but less than 20 years as of the date of enactment of the 1992/1993 authorization act, had served on continuous active duty for at least five years immediately before the member's separation from active duty under the program, had not been approved for "payment of a voluntary separation incentive," and met such other requirements as the Secretary of Defense might provide.[2] In addition, an enlisted member of a regular component was required to enter into a written agreement not to request reenlistment in a regular component any time in the future. An eligible member whose request for separation under the SSB program was approved was entitled to a SSB payment computed by multiplying the product of the member's terminal monthly basic pay and 12 by the product of the member's years of active service and 15 percent. Various non-monetary benefits were also extended to members separated under the SSB program.

In explanation of these programs, the House–Senate Conference Committee noted:

> The ... [programs would] ... provide temporary authority to the Secretaries of the military departments to: (1) offer involuntary separation pay and transition benefits to active duty personnel who elect to voluntarily separate in order to avoid the possibility of facing selection for involuntary separation or denial of reenlistment; and (2) offer a voluntary separation incentive in the form of an annuity to active duty personnel who elect to voluntarily separate in order to avoid the possibility of facing selection for involuntary separation or denial of reenlistment.
>
> The conferees take this action because of their concern over the effect of strength reductions during the next few years on our men and women in uniform and their families. The conferees especially recognize that this drawdown in strength is different from previous drawdowns because it affects people who are a product of an all-volunteer force. Therefore, the conferees would provide these temporary authorities as tools to assist the military Services in selectively reducing, on a voluntary basis, that portion of the career personnel inventory that is not retirement eligible. The conferees believe that these authorities would give a reasonable, fair choice to personnel who would otherwise have no option but to face selection for involuntary separation, and to risk being separated at a point not of their own choosing.
>
> With regard to the first of the two provisions [SSB], the conferees agree that the "voluntary" separation pay benefit would be calculated at 15 percent of basic pay multiplied by the number of years of service of the separating member. Current involuntary separation pay is calculated on 10 percent of basic pay multiplied by the number of years of service of the separating member. The conferees believe that this enhancement will provide an equitable, up-front incentive for personnel to choose in lieu of facing the prospect of involuntary separation. The enhanced separation benefit would be in addition to employment assistance, medical care, commissary and exchange shopping, housing, relocation assistance, and leave and travel

[2] The National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §542(b) and (c), 106 Stat. 2663, 2768–2769 (1994), extended both the VSI and SSB programs to members of the Coast Guard.

> benefits provided by Congress in section 502 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. No. 101-510).
>
> With regard to the second provision [VSI], the conferees recommend the voluntary separation incentive plan proposed by the Secretary of Defense [Cheney]....[3]

As previously indicated, the annual payment to a participating member in the VSI program as originally enacted was to be computed by multiplying the product of the member's terminal monthly basic pay and 12 by the product of the member's number of years of service at separation and 2.5 percent, and subtracting from that mount the sum of any basic pay the member received for subsequent active or reserve service as a member of a reserve component and any compensation the member received for inactive-duty training during the year. The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4406(a)(1), 106 Stat. 2315, 2706–2707 (1992), changed the basis for computing the annual VSI payment by making the subtraction optional and by providing that, in the case of a member choosing to have the subtraction made, the amount of any subtraction would be used as an offset against any future reduction in retired or retainer pay that would otherwise have been required under the VSI program as originally adopted. The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4405(b), 106 Stat. 2315, 2706 (1992), also extended to a participant in the VSI program the same non-monetary benefits that had been extended to members separated under the SSB program.[4]

As originally enacted, active-duty members of the armed forces had to take advantage of both the SSB and VSI programs by September 30, 1995. The National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §561(g) and (h), 107 Stat. 1547, 1668 (1993), extended both program authorization dates through September 30, 1999. The program authorization dates were extended to "encourage DOD to develop and implement coherent, integrated, long-term drawdown plans that will minimize the uncertainties and personnel turbulence associated with such a drawdown."[5]

With respect to the third of the voluntary separation incentive programs, the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992), adopted early-retirement authority—for members with between 15 and 20 years of service—as a "temporary additional force management tool with which to effect the drawdown of military forces through 1995."[See National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id*., §4403(a), 106 Stat. at 2702.][6] Under the subject authority, the Secretaries of the military departments were authorized to accept applications of members of the Army, the Navy, the Marine Corps, and the Air Force having at least 15 but

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[3] H.R. Rep. No. 102-311 (Committee of Conference), at 555–56, accompanying H.R. 2100, 102d Cong., 1st sess. (1991).

[4] H.R. Rep. No. 102-966 (Committee of Conference), at 887, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). *Cf.* S. Rep. No. 102-352 (Committee on Armed Services), at 203, accompanying S. 3114, and H.R. Rep. No. 102-527 (Committee on Armed Services), at 252, accompanying H.R. 5006, 102d Cong., 2d sess. (1992).

[5] H.R. Rep. No. 103-357 (Committee of Conference), at 678, accompanying H.R. 2401, 103d Cong., 1st sess. (1994). To the same effect, see S. Rep. No. 103-112 (Committee on Armed Services), at 145, accompanying S. 1298, 103d Cong., 1st sess. (1993):

> The committee recommends a provision ... that would extend through fiscal year 1998, certain temporary authorities which provide tools to the military services for managing personnel reductions, and which provide a safety net of benefits for separating military personnel during the defense drawdown.
>
> The committee believes that these authorities, which have been used effectively by the military services to make reductions in personnel strength on a prudent, humane basis since they were enacted, will continue to be required as further personnel strength reductions are made over the next several years.

[6] See 10 U.S.C. §1293 note for the full text of the early retirement authority adopted by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992).

less than 20 years of service for voluntary early retirement.[7] This early-retirement authority was applicable during the "active force drawdown period," which as originally enacted, was defined to be the period beginning on the date of enactment of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id*., i.e., October 23, 1992, and ending on October 1, 1995.[8] The National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §561(a), 107 Stat. 1547, 1667 (1993), subsequently extended the termination date for the "active force drawdown period" to October 1, 1999. Acceptance of an application for early retirement entitled a member to retired or retainer pay effectively computed by multiplying the member's "retired or retainer pay base" by an adjusted "retired or retainer pay multiplier."[9] The member's adjusted "retired or retainer pay multiplier" is determined by multiplying 2.5 percent times the member's years and months of creditable service (counting 1/12th of a year for each month of creditable service in excess of the number of whole years of service) and then subtracting from that result, stated as a percentage, 1/12th of 1 percent for each full month by which the member's total months of active service at retirement are less than 240.[10]

In support of the early-retirement authority granted by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702–2704 (1992),[11] the Senate Armed Services Committee, which sponsored the proposal, noted:

> The committee anticipates that the active component strength levels of some of the military services in the current DOD Base Force Plan, which total to an active duty strength level of 1,626,300 by the end of fiscal year 1997, are likely to be reduced substantially. The

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[7] As initially enacted, the early retirement authority did not extend to members of the Coast Guard or to the commissioned officer corps of the National Oceanic and Atmospheric Administration or the Public Health Service. Early retirement authority was, however, subsequently extended to members of the Coast Guard with at least 15 but less than 20 years of service by the National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §542(d), 108 Stat. 2663, 2769 (1994), and to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §566(c), 110 Stat. 186, 328 (1996). The Coast Guard and Maritime Transportation Act of 2012, Pub. L. No. 112-213, Title II, Sec. 219, 126 Stat. 1540, 1558 (2012) subsequently renewed the temporary early retirement authority for certain Coast Guard personnel for FY2013-FY2018 and set limits on the total number of commissioned officers and enlisted members who may retire pursuant to such authority.

[8] National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403(i), 106 Stat. 2315, 2704 (1992). See 10 U.S.C. §1293 note.

[9] National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403(e), 106 Stat. 2315, 2703 (1992). See 10 U.S.C. §1293 note.

[10] A member's normal, or unadjusted, "retired or retainer pay multiplier" is determined under 37 U.S.C. §1409 in one of two ways, depending on when the member first became a member of the armed forces and on what kind of retirement program the member chooses after completing 15 years of active duty. If the member first entered the armed forces before August 1, 1986, the "retired or retainer pay multiplier" is determined by multiplying the member's years and months of creditable service (with each full month of creditable service in excess of a full year counted as 1/12th of a year) by 2.5, with that result being stated as a percentage figure. As described in Chapter III.B.1., Nondisability Retired and Retainer Pay, members who entered active service after July 31, 1986, and chose the Career Service Bonus upon completion of 15 years of active duty have their retirement pay computed differently. However, because receipt of the Career Service Bonus also requires a commitment of five additional years of active service, no members in that category have been eligible to retire before completing 20 years. This means that all members taking advantage of the early voluntary retirement authority provisions have had their "retired or retainer pay multipliers" determined by the formula set out above. For a member retiring with exactly 15 years of creditable service, for example, the retired or retainer pay entitlement is then 5 percent less than it otherwise would have been but for the adjustment required bthe National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403(e), 106 Stat. 2315, 2703 (1992). See 10 U.S.C. §1293 note.

[11] See 10 U.S.C. §1293 note.

> committee expects such a reduction will result from the Defense Department's own revisions to its current Base Force Plan as a result of budget decisions, a more efficient allocation of roles and missions among the military services, a more efficient active/reserve force mix, and other economies and efficiencies that are discussed elsewhere in this report.[12]
>
> In order to cope with the active duty strength reductions that are currently planned by the DOD, the Congress provided authorities to the military services to assist them in implementing the planned reductions prudently. These authorities included separation benefits that the military services could offer to career personnel to induce them to voluntarily separate from active duty.
>
> The committee notes that these authorities have been effective in helping the military services reduce strength in the six to 15-years-of-service element of the career inventory. At the same time, the committee notes that the military services do not have an effective tool to reduce active duty strength in the 15 to 20-year element of the career inventory.
>
> In view of the committee's expectation that the active duty strengths in the current Base Force Plan will be reduced substantially, and in view of the absence of an effective tool that the military services can use to reduce the 15 to 20-year element of the personnel inventory, the committee believes that existing transition provisions should be augmented....
>
> Therefore the committee recommends...
>
> Section 534 [of the Senate bill, S. 3114, 102d Congress, 2d Session (1992)] would authorize active duty personnel who have 15 but less than 20 years of service to apply for and be approved for early retirement. The committee expects the military services to use this authority selectively to trim surpluses in the 15 to 20-year element of the personnel inventory.[13]

The Senate proposal was amended in conference, with the Conference Committee noting:

> The amendment would clarify that the purpose in providing this authority is to give the Department of Defense a temporary, additional force management tool to effect the reduction in military personnel through fiscal year 1995. The amendment would clarify that the Secretaries of the military departments may prescribe appropriate regulations or policies regarding the criteria for eligibility and approval of applications under this section [H.R. 5006, §4403, 102d Congress, 2d Session (1992)]. These criteria may include, but are not limited to, such factors as grade, skill, and years of service. The amendment would provide that the retired pay of a member who retires under this section would be reduced by one percent for each year of service less than 20 years.[14]

In extending the "active force drawdown period" for the purposes of early retirement from October 1, 1995, to October 1, 1999, the House–Senate Conference Committee noted as follows:

> The Senate amendment contained a provision ... that would extend through fiscal year 1998 certain temporary authorities which provide tools to the military services for managing

[12] S. Rep. No. 102-352 (Committee on Armed Services), accompanying S. 3114, 102d Cong., 2d sess. (1992).
[13] S. Rep. No. 102-352 (Committee on Armed Services), at 201–2, accompanying S. 3114, 102d Cong., 2d sess. (1992).
[14] H.R. Rep. No. 102-966 (Committee of Conference), at 886, accompanying H.R. 5006, 102d Cong., 2d sess. (1992).

> personnel reductions, and which provide a safety net of benefits for separating military personnel during the defense drawdown.
>
> The House ... [proposes to] extend these transition authorities through 1999. The conferees believe that by providing the Department of Defense with these authorities for the foreseeable length of the drawdown, they will encourage DOD to develop and implement coherent, integrated, long-term drawdown plans that will minimize the uncertainties and personnel turbulence associated with such a drawdown.[15]

Subsequent legislation extended the drawdown-related early retirement authority from October 1, 1999, through September 1, 2002, in three stages. The National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, extended the authority by two years, through October 1, 2001. The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, extended the authority through December 31, 2001, the end of that calendar year.

The Supplemental Appropriations Act of 2009 requires the Secretary, in making deductions from retired or retainer pay for individuals who previously received certain separation pay or incentives, to take into account the financial ability of the member to pay and to avoid undue financial hardship on the member and the member's dependents, until the total amount deducted is equal to the total amount of voluntary separation incentive so paid.[16]

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[15] H.R. Rep. No. 103-357 (Committee of Conference), at 678, accompanying H.R. 2401, 103d Cong., 1st sess. (1993). (In support of its original proposal to extend the temporary retirement authority through 1998, the Senate Armed Services Committee had noted:

> The committee believes that these authorities [including the temporary retirement authority adopted in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4403, 106 Stat. 2315, 2702-2704 (1992), see 10 U.S.C. §1293 note], which have been used effectively by the military services to make reductions in personnel strength on a prudent, humane basis since they were enacted, will continue to be required as further personnel strength reductions are made over the next several years.

S. Rep. No. 103-112 (Committee on Armed Services), at 145, accompanying S. 1298, 103d Cong., 1st sess. (1993).

[16] Supplemental Appropriations Act, 2009, Pub. L. No. 111-32, Title III, Sec. 318(b), 123 Stat. 1859, 1874 (2009).

Chapter III.D.1.
Retired Members Medical Care

Note: Resource constraints led to the decision not to update all of the health sections in this eighth edition of Military Compensation Background Papers. Chapter III.D.I contains relevant health-related information that has not been updated since 2008.

Legislative Authority: 10 U.S.C. §§1074, 1077, 1078, 1079, 1086, 1086a, 1987, 1092, 1097, 1098, and 1099.

Purpose: The purpose of the medical-care program for retirees is threefold: To provide incentives for armed forces personnel to undertake military service and remain in that service for a full career; to help ensure the availability of physically acceptable and experienced personnel in time of national emergency; and to provide military physicians and dentists exposure to the total spectrum of demographically diverse morbidity, an experience that is necessary to support professional training programs and ensure professional satisfaction for a medical service career.

Background: There was no legislative or administrative authority for medical care to be provided to military retirees and their dependents prior to World War I. At that time, administrative directives established that "supernumeraries" might be admitted to military hospitals under certain circumstances. The term "supernumeraries" was construed to include retired personnel.

During World War II, severe restrictions were placed on the provision of care to retirees in military medical facilities. These restrictions affected all consumers of military medical care other than active-duty members.

With adoption of the Dependents' Medical Care Act, ch. 374, Pub. L. No. 84-569, §301(b) and (c), 70 Stat. 250, 253 (1956), military retirees and their dependents were given a contingent right to care in military medical—including dental— facilities based upon the "availability of space and facilities and the capabilities of the medical and dental staff." [See 10 U.S.C. §1074(b) (retirees) and §1076(b) (dependents or survivors of retired members).] As thus formulated, medical care for retirees in military medical facilities has always been, and to this day remains, a privilege—not an absolute right, as has been assumed by many. The impact of this limitation was not fully apparent until the 1960s when the numbers of retirees increased at an unprecedented rate, and their demands for care began to exceed the capabilities of military medical facilities and their staffs.

The Dependents' Medical Care Act, ch. 374, *id*., also led to the establishment of a beneficiary priority system for determining how care would be provided when there were limited capabilities. First priority for care was given to active-duty members; the second, to dependents and survivors of active-duty members; and, the third, and last, to retirees and their dependents and survivors. As the total beneficiary population increased and medical demands began to exceed capabilities, the first to be affected were retirees.

Recognizing that demand for military medical care was exceeding the capabilities of the services in general, Congress in 1966 amended the provisions of Title 10 dealing with health care for members, former members, and their dependents and survivors, creating authority to contract for the provision of civilian health care to retired members and their dependents as well as the survivors of certain former members, among others. The Department of Defense subsequently exercised this authority through creation of a program that came to be known as the Civilian Health and Medical Program of the Uniformed Services, popularly referred to as CHAMPUS. This program, adopted as part of the Military Medical Benefits Amendments of 1966, Pub. L. No. 89-614, §2(7), 80 Stat. 862, 865 (1966) (amending Title 10, United States Code, by adding a new section, 10 U.S.C. §1086, "Contracts for health benefits for certain members, former members, and their

dependents"), guaranteed retirees who are not entitled to Medicare benefits access to authorized health services from civilian sources as an alternative to medical care from military facilities.[1]

By law, CHAMPUS was a cost-sharing program with the retiree responsible, in the case of outpatient services, for a deductible of $150 for a single individual, or $300 for a family, each fiscal year, together with 25 percent of all subsequent allowed charges. For hospitalization, the retiree was required to pay 25 percent of all allowed charges for "inpatient care." The government paid the balance of the allowed charges for authorized care, i.e., 75 percent of the allowed charges, provided that a retiree or a retiree's family group of two or more persons could not be required to pay a total of more than $7,500 for health care received under CHAMPUS during any fiscal year.[2] [See 10 U.S.C. §1086(b)(4).]

In an attempt to improve the quality of health care for, among others, retirees and their dependents while at the same time controlling health-care costs, Congress, in the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §§701–702, 100 Stat. 3816, 3894–3900 (1986), added a number of new provisions to Chapter 55 of Title 10, United States Code, dealing with medical and dental care. First, Section 702 of the 1987 Authorization Act, Pub. L. No. 99-661, *id*., §702, 100 Stat. 3899–3900, requires the Secretary of Defense, as a part of the so-called CHAMPUS Reform Initiative, to conduct a demonstration project (i) to improve competition among civilian providers of health-care services to the Department of Defense beneficiaries, (ii) to test the relative merits of having beneficiaries of the military health-care system use a voucher system or fee schedule for the provision of health-care services, and (iii) to ensure that community hospitals are given equal consideration with other health-care providers for the provision of health-care services under contracts with the Department of Defense. As set out in Section 702(a) of the 1987 Authorization Act, Pub. L. No. 99-661, *id*., §702(a), 100 Stat. 3899, the purpose of the demonstration project was to improve the effectiveness of the CHAMPUS health-care payment system through the competitive selection of health-care contractors in the civilian sector of the economy who would be financially responsible for the delivery of defined health-care services to former members of the armed forces and their dependents

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[1] In general, persons entitled to hospital and related insurance benefits under Part A ("Hospital Insurance Benefits for the Aged and Disabled") of Title XVIII of the Social Security Act, ch. 531, Pub. L. No. 74-271, 49 Stat. 620 (1935), as amended, 42 U.S.C. §1395c *et seq.*, are not eligible for CHAMPUS benefits. See 10 U.S.C. §1086(d)(1). Thus, when retirees and their dependents become entitled to hospital insurance benefits under the Social Security Act of 1935, as amended, they lose eligibility for CHAMPUS benefits.

[2] The National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §721(b), 101 Stat. 1019, 1115 (1987), provided for a $10,000 annual limit on deductibles and copayments for retirees and their families to serve as a protection or "cap" against "catastrophic loss" [see H.R. Rep. No. 100-446 (Committee of Conference), at 650, 100th Cong., 1st sess. (1987)], and to prevent "the potential of wiping-out a family financially" [see H.R. Rep. No. 100-58 (Committee on Armed Services), at 217, 100th Cong., 1st sess. (1987). See 10 U.S.C. §1086(b)(4) as in effect before enactment of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §703(a), 106 Stat. 2315, 2432 (1992); *cf.* S. Rep. No. 100-57 (Committee on Armed Services), at 150, 100th Cong., 1st sess. (1987), which dealt only with placing a "limitation on out-of-pocket expenses for co-payments and deductibles" for members of the active-duty force. (The 1988/1989 Defense Authorization Act, Pub. L. No. 100-180, id., §721(a), 101 Stat. 1115, amending 10 U.S.C. §1079(b) (dealing with medical care for dependents of members of the active-duty forces), established a $1,000 "cap" on out-of-pocket expenses for medical care for members of the active-duty forces and their dependents. See 10 U.S.C. §1079(b)(5). See Chapter IV.B.4., "Medical Care (Service members and Dependents)," below. The House–Senate conferees expressed regret at having to adopt a $10,000 "catastrophic cap for retiree families, due to budget constraints" and indicated an intention to "address this level of catastrophic loss protection again in the future." See H.R. Rep. No. 100-446 (Committee of Conference), at 650, 100th Cong., 1st sess. (1987).) The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §703(a), 106 Stat. 2315, 2432 (1992), reduced the $10,000 annual cap on copayments and deductibles to $7,500. See S. Rep. No. 102-352 (Committee on Armed Services), at 213, accompanying S. 3114, and H.R. Rep. No. 102-966 (Committee of Conference), at 718, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). See 10 U.S.C. §1086(b)(4).

(as well as to dependents of members). The demonstration project was required to be limited to one-third of the overall CHAMPUS program.[3]

Second, insofar as military retirees, their dependents, and survivors were especially concerned, the act permitted the Secretary of Defense to contract with a variety of health-care providers and insurers for the provision of basic health-care services. Included within the scope of permitted contractors were health maintenance organizations, preferred provider organizations, individual providers, individual medical facilities, insurers, and consortiums of all such providers, facilities, and insurers. In addition, the act specifically authorized the Secretary of Defense to prescribe premiums, deductible amounts, copayment percentages or amounts, and other health-care charges for affected beneficiaries.

Third, while authorizing the Secretary of Defense to prescribe premiums, deductibles, copayments and the like, the 1987 Authorization Act, Pub. L. No. 99-661, *id*., §701(a), 100 Stat. 3895 (adding 10 U.S.C. §1098, "Incentives for participation in cost-effective health care plans"), also specifically authorized the Secretary to waive beneficiary financial liabilities that would otherwise apply to, among others, military retirees and their dependents under 10 U.S.C. §1086(b). The Secretary was permitted to waive such payments as an inducement to beneficiaries of the military health-care system to enroll in alternative health-care programs that, while being no more costly to the government, would provide equal or better services. In addition to being permitted to waive various beneficiary liabilities, the Secretary was also permitted to waive limitations on the kinds of health-care services that could be provided as a part of the inducement to beneficiaries to enroll in more cost-effective health-care plans.

Fourth, the 1987 Authorization Act, Pub. L. No. 99-661, *id*., §701(a), 100 Stat. 3896, required the Secretary of Defense to establish a health-care enrollment system for beneficiaries of the military health-care program. Under the enrollment system, codified at 10 U.S.C. §1099, beneficiaries are permitted to choose a health-care plan from a number of alternative plans designated by the Secretary of Defense. Eligible health-care plans include health-care facilities of the uniformed services, CHAMPUS providers, all health-care plans contracted for by the Secretary of Defense, together with any combination of such plans. An exception to the freedom to choose enrollment could apply where it was deemed necessary to assign beneficiaries to health-care facilities of the uniformed services in order to ensure full use of such facilities in a particular geographic area. The Secretary's authority to waive certain beneficiary payments and to depart from limitations on the types of health-care services that could be provided to beneficiaries could be used as inducements for beneficiaries to enroll in the alternative health-care plans contracted for by the Secretary.

In addition to the changes described, the Secretary of Defense was authorized to prescribe regulations to implement the various provisions, including certain other administrative changes to the system that do not directly affect health care for beneficiaries, including military retirees, their dependents, and survivors.

The CHAMPUS Reform Initiative was amended by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §732(a) and (b), 101 Stat. 1019, 1119–1121 (1987), (i) to require the Secretary of Defense to develop a methodology for evaluating the demonstration project and (ii) to provide that no more than one contract could be accepted from any one contractor under the demonstration phase of the reform initiative, among other things.

In 1994 the Department of Defense embarked on a new program, known as TRICARE, to improve the quality, cost, and accessibility of services for its beneficiaries. Because of the size and complexity of the military health services system (MHSS), TRICARE implementation was phased in over a period of several years. The principal mechanisms for the implementation of TRICARE were the designation of the

[3] See, e.g., H.R. Rep. No. 99-1001 (Committee of Conference), at 489–90, accompanying S. 2638, 99th Cong., 2d sess. (1986). Also see H.R. Rep. No. 99-718 (Committee on Armed Services), at 238, accompanying H.R. 4428, 99th Cong., 2d sess. (1986), in which the House Committee on Armed Services expressed special concern about how the Department of Defense Project Imprint would affect the delivery of health-care services to military retirees and their dependents; *cf. id.* at 234–42 generally for a discussion of the military health-care delivery system.

commanders of selected Military Medical Treatment Facilities (MTFs) as lead agents for 12 TRICARE regions across the country, operational enhancements to the MHSS, and the procurement of managed-care support contracts for the provision of civilian health-care services within those regions.

A major feature of TRICARE is the establishment of a triple-option benefit. CHAMPUS-eligible beneficiaries are offered three options: they may elect to receive health care through (1) an HMO-type program called "TRICARE Prime", (2) the preferred-provider network on a case-by-case basis under "TRICARE Extra", or (3) non-network providers under "TRICARE Standard". (TRICARE Standard, the program that replaced the standard CHAMPUS, maintains the same deductible and inpatient charges as those outlined above for the CHAMPUS program.) Enrollees in TRICARE Prime obtain most of their care within the network and pay substantially reduced CHAMPUS cost shares when they receive care from civilian network providers. Enrollees in TRICARE Prime retain freedom to use non-network civilian providers, but they have to pay cost sharing considerably higher than TRICARE Standard if they do so. Beneficiaries who choose not to enroll in TRICARE Prime will preserve their freedom of choice of provider for the most part by remaining in TRICARE Standard. These beneficiaries face standard CHAMPUS cost-sharing requirements, except that their coinsurance percentage is lower when they opt to use the preferred-provider network under TRICARE Extra. All beneficiaries continue to be eligible to receive care in MTFs, but active-duty family members who enroll in TRICARE Prime have priority over all other beneficiaries.

TRICARE Prime incorporates the "Uniform HMO Benefit Option," which was mandated by Section 731 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §731, 107 Stat. 1547, 1696 (1993). It required the establishment of a Uniform HMO Benefit Option, which was required "to the maximum extent practicable" to be included "in all future managed health care initiatives undertaken by" the Department of Defense. This option is to provide "reduced out-of-pocket costs and a benefit structure that is as uniform as possible throughout the United States." The 1994 Authorization Act further requires a determination that, in the managed-care initiative that includes the Uniform HMO Benefit Option, Department of Defense costs are to be "no greater than the costs that would otherwise be incurred to provide health care to the covered beneficiaries who enroll in the option."

In addition to this provision of the 1994 Authorization Act, a similar requirement was established by Section 8025 of the Department of Defense Appropriations Act, 1994, Pub. L. No. 103-139, §8025, 107 Stat. 1418, 1443–1444 (1993). As part of an initiative "to implement a nationwide managed health care program for the MHSS," the Department of Defense was required to establish "a uniform, stabilized benefit structure characterized by a triple option health benefit feature." The Uniform HMO Benefit also implements this requirement of law. It offers reduced cost sharing to CHAMPUS-eligible beneficiaries who enroll in TRICARE Prime.

TRICARE/CHAMPUS supports both the active-duty and retired communities. For a more detailed description of the TRICARE/CHAMPUS system considered as a whole, the reasons for its adoption in the first instance, and how it is administered, see Appendix X, "TRICARE/CHAMPUS," hereof, below.

Current status of medical care for retired members and their dependents: The primary form of health care authorized for military retirees and their dependents and survivors before they become eligible for hospital insurance benefits under the Social Security Act, as amended, is TRICARE, which integrates the entitlement to CHAMPUS with the services available to retirees, their dependents, and survivors in military medical facilities depending on "availability of space and facilities and the capabilities of the medical and dental staff." [See 10 U.S.C. §1074(b) (retirees) and §1076(b) (dependents or survivors of retired members).] Even after they become eligible for Social Security hospital insurance benefits, retirees, their dependents, and survivors may receive treatment at military medical facilities on a space-available basis.[4]

[4] The service regulations that establish priorities for medical care for service members and their dependents and survivors and retirees and their dependents and survivors are as follows: for the Army, AR 40-3, chapter 4; for the Navy, NAVMED 6320.33; and for the Air Force, AFR 168-6, chapter 1.

Because of the down-sizing of the active-duty forces as a result of the end of the Cold War and the increasing number of retirees who performed the majority of their active service during that period, retirees and their dependents and survivors constitute by far the largest class of persons presently eligible for military medical care. Taking into account dependents of active-duty personnel, non-active-duty beneficiaries comprise more than 80 percent of all persons eligible for military medical care.

Cost: For the cost of medical care for retired members from 1978 to 1995, see table III-9, below.

Table III-9. Retired Members Medical Care, 1978–1995

	MILITARY FACILITIES		CHAMPUS COSTS	
Year	**Inpatient**[1]	**Outpatient**[2]	**Total Costs**[3]	**($000)**
1978	45.4%	32.1%	51.1%	$298.6
1979	46.8%	32.3%	51.0%	331.0
1980	48.6%	33.3%	52.1%	380.5
1981	50.1%	33.9%	51.7%	444.7
1982	49.7%	34.4%	50.4%	540.2
1983	50.6%	34.9%	50.4%	601.6
1984	50.6%	34.8%	49.4%	619.1
1985	48.9%	34.6%	49.3%	693.4
1986	48.6%	34.3%	46.9%	803.1
1987	48.0%	33.2%	45.2%	953.7
1988	54.3%	43.5%	44.8%	980.4
1989	54.6%	43.4%	43.7%	1,033.8
1990	54.9%	42.3%	44.5%	1,184.9
1991	61.0%	42.5%	44.9%	1,263.7
1992	61.7%	43.1%	47.6%	1,298.7
1993	62.3%	44.1%	51.1%	1,376.3
1994	62.0%	44.1%	53.8%	1,404.6
1995	63.1%	45.6%	55.4%	1,358.0

[1] Percentage of other than active-duty members' inpatient days.

[2] Percentage of other than active-duty members' outpatient visits.

[3] Percentage of other CHAMPUS benefit costs.

Note: No data available after 1995.

Chapter III.D.2.
Servicemembers' Group Life Insurance / Veterans' Group Life Insurance

Legislative Authority: 38 U.S.C. §§1965–1980A.

Purpose: To make life insurance available to members of the uniformed services at a reasonable cost.

Background: The practice of insuring the lives of members of the armed forces is of relatively recent origin. During the early wars to which the United States was a party, the general public, as well as members of the armed forces, had a low regard for life insurance, and the fact that life insurance was not used to provide financial protection for the families of members of the armed forces was evidently not looked upon as unusual. By the time the United States became involved in World War I, however, the situation had changed, and it was generally recognized that some means was needed to provide protection for the families of members of the armed forces fighting for their country. Commercial insurance companies were not used for this purpose, as the companies refused these risks outright, avoided them through a war clause, or charged prohibitive premiums for waiving the clause.

To fill the gap, the Act of October 6, 1917 (War Risk Insurance Act of 1917), ch. 105, Pub. L. No. 65-90, §§400–405, 40 Stat. 398, 409–10 (1917), created a program of United States Government Life Insurance (USGLI) that permitted service members to buy yearly renewable-term life insurance in multiples of $500, with minimum coverage of $1,000 and maximum coverage of $10,000. The War Risk Insurance Act, adopted well before the end of the war, specified that the term insurance would expire if not converted to permanent insurance within five years after the war ended, but successive extensions of the cutoff date effectively nullified this provision. In practice, conversion from term to permanent insurance, although allowed, was never required. The government was the USGLI insurer and assumed the cost of the "extra hazard" involved in insuring members of the armed forces. The USGLI program was modified and liberalized many times over the course of the years.[1] All persons who served on active duty at any time between October 6, 1917, and October 8, 1940, ultimately became eligible for USGLI coverage. The program remained available to qualified personnel until April 24, 1951.

The National Service Life Insurance Act of 1940, enacted as Title VI, Part I, of the Second Revenue Act of 1940, ch. 757, Pub. L. No. 76-801, §§601–618, 54 Stat. 974, 1008–1014 (1940), substituted National Service Life Insurance (NSLI) for USGLI for persons who entered service on or after that date. Persons in service both before and after October 8, 1940, could choose either NSLI or USGLI or a combination of the two, but they could not carry a combined face-value amount of insurance in excess of $10,000. NSLI was five-year renewable-term insurance, issued in multiples of $500, with a minimum coverage of $1,000 and a maximum coverage of $10,000 and convertible to permanent insurance after it had been in force for one year. As was the case with USGLI, the government was the NSLI insurer and bore the excess cost resulting from the hazards of military service. Premium rates and reserves were based on a 3-percent interest rate rather than the 3.5-percent rate applicable to USGLI. This resulted in slightly higher premiums and lower death benefits, when paid on an income basis, for NSLI than for USGLI. The Veterans Administration,[2] as

[1] e.g., World War Veterans' Act, 1924, ch. 320, Pub. L. No. 68-242, Title III, §§300–307, 43 Stat. 607, 624–27 (1924).
[2] The Veterans Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, §2, 102 Stat. 2635. Pursuant to that act, from and after March 15, 1989, all references in any federal law, executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. See Department of Veterans Affairs Act, Pub. L. No. 100-527, *id*., §10, 102 Stat. 2640–2641; also see 38 U.S.C.A. §301 note. (Some references to the "Veterans Administration" or "VA" have been retained in the present chapter, largely for historical reasons. It should be understood, however, that the federal agency currently charged with authority for administering the laws and regulations formerly administered by the Veterans Administration is the Department of Veterans Affairs.)

the federal agency charged with authority for administering the NSLI and USGLI programs, traditionally followed a conservative policy in setting premium rates, so that premiums charged were usually more than would be justified by reference to the mortality experience of the insured population. As a result, annual dividends have been paid to NSLI and USGLI policyholders throughout the years. NSLI was closed to new issues on April 25, 1951.

The Servicemen's Indemnity Act of 1951, enacted as Part I of the Act of April 25, 1951, ch. 39, Pub. L. No. 82-23, §§1–9, 65 Stat. 33, 33–35 (1951), terminated new issues of NSLI and USGLI and replaced them with a $10,000 gratuitous indemnity payable to the survivors of a member dying while serving on active duty or within 120 days after a period of active duty. The indemnity was to be paid in 120 monthly installments of $92.90 each. Thus, over the full 10-year period, payments of principal and interest totaled $11,148. The amount of the indemnity was reduced by the face value of any NSLI or USGLI policy in force. This requirement in effect negated the insurance risk for which in-service NSLI and USGLI policyholders were paying premiums. Accordingly, such personnel were permitted to surrender permanent policies for cash value or to waive that part of the premium representing pure insurance risk. In-service personnel holding term policies could waive all premiums. The policies were nonparticipating—i.e., non-dividend-paying—during the waiver period.

Since the Servicemen's Indemnity Act of 1951, ch. 39, *id*., terminated new issues of NSLI and USGLI, it also established a Veterans' Special Life Insurance (VSLI) program to provide low-cost insurance during the transition from military to civilian life. [See Insurance Act of 1951, enacted as Part II of the Act of April 25, 1951, ch. 39, Pub. L. No. 82-23, §§10–13, 65 Stat. 33, 36–38 (1951).] VSLI was five-year renewable-term insurance issued in multiples of $500, with minimum coverage of $1,000 and maximum coverage of $10,000, to veterans who applied within 120 days after release from active duty. It was at first nonconvertible and nonparticipating, but it was made convertible in 1959 and participating in 1974. VSLI was issued from April 1951 through December 1956.

Both of the government insurance programs described above and the Servicemen's Indemnity Act gratuity guaranteed the payment of a fixed sum of money on the death of a covered individual. Neither was designed as a permanent income-replacement plan for dependent survivors of military personnel. The Servicemen's and Veterans' Survivor Benefits Act, ch. 837, Pub. L. No. 84-881, §§201–210, 70 Stat. 857, 862–68 (1956), created the Dependency and Indemnity Compensation (DIC) program as a partial income-replacement program, to take effect January 1, 1957. It also placed military personnel under the Social Security system effective January 1, 1957, and thus made their dependents eligible for survivor benefits under that system. The Servicemen's and Veterans' Survivor Benefits Act concurrently abolished the $10,000 Servicemen's Indemnity Act gratuity and ended the VSLI program. The DIC and Social Security programs are outside the "insurance" mainstream treated in this chapter.[3]

Beginning January 1, 1957, no government life insurance program was generally available to members or former members of any of the uniformed services for the first time in 40 years. This situation continued until the Act of September 29, 1965, Pub. L. No. 89-214, 79 Stat. 880 (1965), established the Servicemen's Group Life Insurance (SGLI) program, as new Subchapter III of Chapter 19, Title 38, United States Code.

The SGLI program has been modified several times since its inception, but most of its fundamentals have remained intact. SGLI is term insurance: it has no cash, loan, paid-up, or extended insurance values. Neither does it provide accidental death or disability benefits. SGLI coverage is in addition to any coverage a member may have under any other government policy. A member eligible for SGLI is insured in the maximum authorized amount unless he or she declines in writing to be insured or elects in writing less-than-maximum coverage. This "automatic" feature is a departure from the earlier programs under which an individual was required to take affirmative action to be insured in any amount. SGLI also differs from the

[3] See Chapter III.D.4., "Dependency and Indemnity Compensation," and Chapter IV.C.1., "Government Contribution to Social Security," hereof, below.

previous programs in that the government is not the insurer. The Prudential Insurance Company is the primary SGLI insurer under a contract with the Department of Veterans Affairs, the federal agency charged with supervisory responsibility for the program. Private insurance companies participate in the program as reinsurers. SGLI premiums are collected by the services from their members, normally by payroll deduction, and are remitted monthly to the Department of Veterans Affairs. Any extra hazard costs of SGLI attributable to military service are determined by the Department of Veterans Affairs on an actuarial basis and paid to that agency by each of the services from appropriated funds.

The SGLI authorized by the Act of September 29, 1965, Pub. L. No. 89-214, §1, 79 Stat. 880, 880–81 (1965), adding then new 38 U.S.C. §767 (current 38 U.S.C. §1967), was in the maximum amount of $10,000. All personnel on active duty for more than 30 days were insured, in the absence of an individual election to the contrary. Coverage continued for 120 days after separation, with the cost of such extended coverage being included in the premiums paid while on active duty. Up to the end of this 120-day period, the insured had the right to purchase an individual policy of permanent insurance in an amount equal to SGLI coverage from any of the companies in the program. Participating companies had to agree to issue such policies upon application and payment of required premiums, at standard rates and without a medical examination, as a condition of admission into the program.

The Act of June 25, 1970, Pub. L. No. 91-291, §2, 84 Stat. 326, 327 (1970), amending then 38 U.S.C. §767 (current 38 U.S.C. §1967), raised the SGLI maximum from $10,000 to $15,000 in addition to authorizing "part-time" coverage for certain reservists. Reserve members on active duty for less than 31 days or performing inactive-duty training scheduled in advance were, absent an election not to be covered, insured against death during such duty and while proceeding directly to and returning directly from the place of duty. SGLI was also payable if the reserve member incurred a disability during a period of coverage, and death resulted from the disability within 90 days. If the disability did not result in death within 90 days but did cause the member to be uninsurable at standard rates, the member had the right to purchase an individual policy of permanent commercial insurance, under the same rules applicable to "full-time" SGLI, at the end of the 90 days.

The Act of June 20, 1972, Pub. L. No. 92-315, 86 Stat. 227 (1972), extended SGLI coverage to cadets or midshipmen of the United States Military, Naval, Air Force, and Coast Guard Academies.

The Veterans' Insurance Act of 1974, Pub. L. No. 93-289, §4(1), 88 Stat. 165, 166 (1974), further amending then 38 U.S.C. §767 (current 38 U.S.C. §1967), increased the SGLI maximum from $15,000 to $20,000. It also (1) extended "full-time" coverage to Ready Reserve members assigned to a unit or position in which they might be required to perform active duty and in which they would each year be scheduled for at least 12 periods of inactive-duty training, and to reserve members under age 61 with at least 20 years of satisfactory service as defined in 10 U.S.C. §1332[4] who were members of, or eligible for, assignment to the Retired Reserve but who were not receiving retired pay; (2) changed the disability-extension period for "part-time" reserve coverage from 90 to 120 days; (3) revoked the right to exchange SGLI for an individual commercial policy; and (4) created a new program of Veterans' Group Life Insurance (VGLI).

The Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments Act of 1981, Pub. L. No. 97-66, §401, 95 Stat. 1026, 1030–1031 (1981), increased the SGLI maximum to $35,000. The Veterans' Administration Health-Care Amendments of 1985, Pub. L. No. 99-166, §401, 99 Stat. 941, 956–57 (1985), further increased the SGLI maximum, this time to $50,000 and provided that amounts of less than $50,000 would be issued in increments of $10,000. The Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §336(a)(1), 105 Stat. 75, 89–90 (1991), further increased the SGLI maximum, this time to $100,000. The Veterans' Benefits Act of 1992, Pub. L. No. 102-568, §201, 106 Stat. 4320, 4324 (1992), again increased the SGLI maximum, this time to $200,000. The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §646, 110

[4] Now 10 U.S.C. §12732.

Stat. 186, 369–70 (1996), slightly modified the SGLI program by providing for automatic coverage for all service members in the amount of $200,000 except for members who specifically request in writing not to be insured at all or to be insured for some lesser amount than $200,000 that is evenly divisible by $10,000. Persons eligible for such coverage include all members of the uniformed services on active duty, active duty for training, or inactive-duty training, as well as members of the Retired Reserve of any service and persons who, upon application, would be eligible for assignment to the Retired Reserve.[5]

The Veterans' Programs Enhancement Act of 1998, Pub. L. No. 105-368, 112 Stat. 3315 (1998), established an accelerated benefit option for terminally ill holders of SGLI policies, providing a lump-sum payment at the face value of the insurance. Effective in 2001, the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. No. 106-419, 114 Stat. 1822 (2000), increased the maximum amount of SGLI coverage from $200,000 to $250,000 and granted SGLI eligibility to members of the Individual Ready Reserve who are subject to involuntary call-up. Family SGLI coverage was added by the Veterans Survivor Benefits Improvement Act of 2001, Pub. L. No. 107-14, 115 Stat. 25 (2001), for the spouses and dependent children of SGLI-eligible members. The legislation established maximum SGLI coverage of $100,000 for spouses (not to exceed the coverage amount of the member) and automatic coverage of $10,000 for each dependent child. The service member pays premiums for the spousal coverage. The coverage for dependent children is free.

SGLI coverage normally ends for an active-duty member on the 120th day after separation from active duty, and for a member of the Ready Reserve, on the 120th day after separation from a full-time-coverage status. If, however, the member is totally disabled on the date of separation, the coverage ends on the date total disability ceases or two years from the date of separation, whichever is earlier, but in no event sooner than 120 days after separation. Public Law 104-275, effective October 9, 1996, merged Retired Reservists SGLI into the VGLI program and extended VGLI to members of the Ready Reserves. The amendment also provided that members can convert their SGLI directly to a commercial policy of insurance and may convert VGLI to a commercial policy at any time rather than only at the end of 5-year periods. Part-time reserve coverage stops after each period of qualifying duty, including travel time, and resumes at the start of the next period. If a part-time member is disabled during one of the intermittent coverage periods, coverage may be extended for up to 120 days.

Veterans' Group Life Insurance, or VGLI, is a program of post-separation insurance that provides for the conversion of SGLI to an indefinitely renewable five-year term policy. Former members of the active-duty force may elect to continue group coverage under the VGLI program. An electing member may choose any amount available under the VGLI program so long as the amount chosen does not exceed the member's SGLI coverage. Members of the Ready Reserves/National Guard who are insured under full-time SGLI and are separated, retired, or released from assignment are also eligible for VGLI coverage. Members under part-time SGLI may continue group coverage only at the end of a 120-day period during which their SGLI was continued in force as a result of a disability incurred during a period of active-duty or inactive-duty training.

VGLI is available in $10,000 increments up to a maximum of $250,000. [See 38 U.S.C. §§1977(a) and 1967(a), as amended by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §336(b), 105 Stat. 75, 90 (1991), the Veterans Benefits Act of 1992, Pub. L. No. 102-568, §202, 106 Stat. 4320, 4324 (1992), the Veterans Programs Enhancement Act of 1998, Pub. L. No. 105-368, and the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. No. 106-419.] To obtain VGLI, an individual must apply for it and pay an initial premium within the period of extended SGLI coverage—i.e., normally, within 120 days of separation; however the maximum time period in which a former member may apply for VGLI without needing to prove good health was extended from 120 to within 240 days of separation via a regulatory amendment adopted on November 1, 2012. VGLI

[5] Retired reserve SGLI is unique in that coverage is not "automatic"; to obtain coverage, a person normally must apply and pay an initial premium within 120 days after becoming qualified.

takes effect on the day following the expiration of SGLI coverage. Premiums have to be paid by the insured directly to the office designated by the insurer to administer the program. An insured person whose VGLI is in force at the end of any five-year period following initial coverage has an enforceable right to renew VGLI coverage for another five-year term or to purchase an individual policy of permanent insurance in an amount equal to VGLI coverage, without a medical examination, at standard rates, regardless of health, from any private insurance company participating in the program. Pursuant to amendments to the VGLI program made by the Veterans' Administration Health-Care Amendments of 1985, Pub. L. No. 99-166, §401(b)(2), 99 Stat. 941, 957 (1985), VGLI coverage is available to members of the Individual Ready Reserve (IRR) and the Inactive National Guard (ING).

Effective September 1, 2005, the maximum level of SGLI increased from $250,000 to $400,000, in accordance with the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief of 2005, Pub. L. No. 109-13, 119 Stat. 231 (2005). All service members, reservists, and National Guard members eligible for full-time SGLI were automatically insured for $400,000 regardless of any previous requests to reduce or decline SGLI. SGLI became available only in increments of $50,000. Previously, service members could elect coverage in increments of $10,000. The maximum amount of Family SGLI remains $100,000, but spousal coverage may not exceed a beneficiary's coverage amount.[6] Effective July 1, 2008, SGLI premiums decreased to 6.5 cents per $1,000 per month, down from 7 cents per $1,000 per month. This translated into a 7-percent savings.[7]

The Servicemembers' Group Life Insurance Enhancement Act of 2005, Pub. L. No. 109-80, 119 Stat. 2045 (2005), made the increase in SGLI coverage permanent. This law also created a new program of insurance in SGLI, Traumatic Injury Coverage, effective December 1, 2005, which is codified in the new section 38 U.S.C. 1980A. This coverage provides servicemembers protection against loss due to traumatic injuries and is designed to provide financial assistance to members so their loved ones can be with them during their recovery from their injuries. The coverage ranges from $25,000 to $100,000 depending on the nature of the injury.

The Veterans' Housing Opportunity and Benefits Improvement Act of 2006 extended the free 120-day coverage period to two years for certain disabled servicemembers and their dependents, which allowed totally disabled SGLI policyholders to keep their coverage for two years but obligated them to apply for coverage after their separation from service.[8] This law also made technical and clarifying amendments to provisions concerning SGLI traumatic injury protection coverage.[9] Amendments stipulate that traumatic injury must be sustained on or after December 1, 2005 and define "inability to carry out activities of daily living" as the inability to perform two or more of the following functions: bathing, continence, dressing, eating, toileting, and transferring.[10]

The Veterans' Benefits Improvement Act of 2008 added benefits for families of stillborn children born on or after October 10, 2008, entitling them to a $10,000 payment, the maximum amount under Family

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[6] U.S. Department of Veterans Affairs, "Servicemembers' & Veterans' Group Life Insurance: Frequently Asked Questions about SGLI, http://www.insurance.va.gov/sgliSite/SGLI/sgli%20faq.htm.

[7] "Servicemembers' & Veterans' Group Life Insurance: Frequently Asked Questions about SGLI."

[8] Veterans' Housing Opportunity and Benefits Improvement Act of 2006, Pub. L. No. 109-233, Title III, section 301, 120 Stat. 397, 405 (2006); Christine Scott, "Veterans' Benefits: Current Life Insurance Programs," CRS Report for Congress, February 14, 2003, 3.

[9] Library of Congress, Congressional Research Service," S. 1235—Veterans' Housing Opportunity and Benefits Improvement Act of 2006," https://www.congress.gov/bill/109th-congress/senate-bill/1235?q={%22search%22%3A[%22\%22pl109-233\%22%22]}&resultIndex=1.

[10] Veterans' Housing Opportunity and Benefits Improvement Act of 2006, Pub. L. No. 109-233, Title V, section 501, 120 Stat 397, 411 (2006).

SGLI coverage. Coverage ends 120 days after the servicemember's separation from service or release from Ready Reserve assignment.[11]

The Veterans' Benefits Act of 2010 made permanent the extension of coverage provided under the Veterans' Housing Opportunity and Benefits Improvement Act of 2006. Servicemembers who are totally disabled at the time of separation are granted a free two-year SGLI coverage period and are automatically enrolled in VGLI at the end of the extension. The extension period guarantees that those most in need, who have been seriously disabled as a result of their service, will be fully covered under the SGLI program. Moreover, the extension maximizes "the opportunity for totally disabled veterans, who have limited or no opportunity of obtaining commercial insurance, to obtain insurance coverage, thereby providing financial security for their families."[12] This extension applies to separations from service after June 14, 2005.[13] This Act also permits certain VGLI policyholders to increase coverage by up to $25,000 at every fifth anniversary, with the total coverage limited to the maximum allowable at the time of renewal.[14] Finally, this Act allows payments that distinguish between the severity of a qualifying loss of a dominant hand and a non-dominant hand.[15]

Cost: For historical data on the costs of insuring service members for their military service between 1972 and 1975, see table III-10, below.

Table III-10. Servicemen's Government Costs Attributable to Group Life Insurance, 1972–1975

Fiscal Year	Total Personnel	Cost ($000)	Officer	Cost ($000)	Enlisted	Cost ($000)
1972	2,507,523	$7,551	356,200	$1,060	2,151,323	$6,491
1973	1,698,992	3,885	258,667	582	1,440,325	3,303
1974	2,210,422	12,859	321,168	1,852	1,889,254	11,007
1975	2,170,969	6,514	315,664	919	1,855,305	5,496

Note: The Veterans' Administration determined that the added cost of insuring for the extra hazard of military service had become negligible and payment of this SGLI cost was suspended after October 1974.

[11] Veterans' Benefits Improvement Act of 2008, Pub. L. No. 110-389, Title IV, section 402, 122 Stat. 4145, 4174 (2008); Scott, 7.
[12] U.S. House of Representatives, Committee on Veterans' Affairs, "Veteran's Insurance and Health Care Improvements Act of 2009, H.R. Rep. No. 111-223, 3, https://www.congress.gov/111/crpt/hrpt223/CRPT-111hrpt223.pdf.
[13] Veterans' Benefits Act of 2010, Pub. L. No. 111-275, Title IV, section 402, 124 Stat. 2864, 2879 (2010); Scott, 10.
[14] Veterans' Benefits Act of 2010, Pub. L. No. 111-275, Title IV, section 404, 124 Stat. 2864, 2879 (2010); Scott, 11.
[15] Veterans' Benefits Act of 2010, Pub. L. No. 111-275, Title IV, section 404, 124 Stat. 2864, 2880 (2010).

Chapter III.D.3.
Death Gratuity

Legislative Authority: 10 U.S.C. §§1475–1480.[1]

Purpose: To provide an immediate cash payment to assist survivors of deceased members of the armed forces to meet their financial needs during the period immediately following a member's death and before other survivor benefits, if any, become available.

Program Description: In broad outline, the death-gratuity program provides for a special payment of $100,000 to the "eligible survivors"[2] of members of the armed forces—including members of the reserve components of the armed forces—who die while on active duty, while performing authorized travel to or from active duty, while on inactive-duty training, or while performing authorized travel directly to or from active duty for training or inactive-duty training, as well as to members of reserve officers' training programs who die while performing annual training duty under orders for a period of more than 13 days or while performing authorized travel to or from that duty, to applicants for membership in a reserve officers' training corps who die while attending field training or a practice cruise or while performing authorized travel to or from the place where such training or cruise is conducted, and to persons who die while traveling to or from, or while at, a place of acceptance for entry upon active duty who have been ordered or directed to go to that place and have been provisionally accepted for that duty or selected for service under the Military Selective Service Act.[3]

Background: A death gratuity equal to six months' pay was first authorized for survivors of Regular Army personnel in the Act of May 11, 1908 (Army Appropriation Act, 1909), ch. 163, Pub. L. No. 60-112, 35 Stat. 106, 108 (1908), and for survivors of Regular Navy and Marine Corps personnel in the Act of May 13, 1908 (Naval Service Appropriation Act, 1909), ch. 166, Pub. L. No. 60-115, 35 Stat. 127, 128 (1908). A government life-insurance program did not exist at the time, and because of the hazards of service, war-clause exemptions in commercial insurance, and the relatively low level of military pay, career personnel often could not obtain or afford adequate commercial life insurance. The original purpose of the death gratuity was to help fill the financial gap resulting from this lack of life-insurance protection. The Act of October 6, 1917 (War Risk Insurance Act of 1917), ch. 105, Pub. L. No. 65-90, §312, 40 Stat. 398, 408 (1917), repealed the Army, Navy, and Marine Corps death-gratuity laws while establishing a government life-insurance program [*id*., §§400–405, 40 Stat. 409–10], and the predecessor of today's dependency and indemnity compensation program [*id*., §§300–314, 40 Stat. 405–8].

Early in 1919, a bill to reinstate the Army's death-gratuity program was reported to the floor of the House, where it touched off a spirited debate. The arguments advanced by the bill's proponents focused almost exclusively on the quasi-contractual nature of the original death-gratuity law and on the government's alleged breach of good faith in repealing it. Since the death gratuity had been created as a substitute for life insurance, and since the 1917 government life-insurance program was still in effect at the time, these arguments did not address the question of the ultimate aim to be served by reinstating the death gratuity. Opponents of the bill argued that existing government life-insurance and death-compensation programs made the death gratuity unnecessary. Controversy also arose over whether, if the program were reinstated, it should be limited to the survivors of regular personnel or extended to non-regular components, and whether the gratuity should be pay-related or paid in the same amount to all survivors. Supporters of reinstatement prevailed, and the Act of December 17, 1919, ch. 6, Pub. L. No. 66-99, §1, 41 Stat. 367 (1919), reestablished a death gratuity equal to six months' pay for the survivors of Regular Army personnel.

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[1] 10 U.S.C. §1478(a).
[2] 10 U.S.C. §1477 catchline.
[3] 10 U.S.C. §1475(a)(1)–(5).

The Act of June 4, 1920 (Naval Service Appropriation Act, 1921), ch. 228, Pub. L. No. 66-243, 41 Stat. 812, 824 (1920), reinstated the Navy and Marine Corps death-gratuity programs.

The Act of June 20, 1949, ch. 225, Pub. L. No. 81-108, §§1–3, 63 Stat. 201, 201–2 (1949), extended death-gratuity payments to survivors of reserve and National Guard members who died during a period of active duty or inactive-duty training. This provision was part of a larger package entitling members of reserve components of the armed forces to the same benefits in general as members of regular components. In view of the fact that the death gratuity for members of regular components of the armed forces had been reinstated in 1919–20 primarily because it had been held to represent a contract-like understanding between the government and such personnel, the rationale for extending similar benefits to members of reserve components must have been somewhat different. Whatever the case, there was not a murmur of dissent to the 1949 act's expansion of the program to reservists.

Congress also looked closely at the death gratuity in its deliberations on H.R. 7089, 84th Cong., 2d sess. (1956), ultimately adopted as the Servicemen's and Veterans' Survivor Benefits Act, ch. 837, Pub. L. No. 84-881, §§301–304, 70 Stat. 857, 868–69 (1956). Under this reexamination of the basic concept of the death gratuity, Congress advanced the notion of its purpose as an "emergency fund" intended to tide survivors over the period immediately following the death of a service member while payment of dependency and indemnity compensation, Social Security survivor benefits, and life-insurance proceeds, as applicable, was pending. To this end, the act specified that the gratuity be paid "immediately," and implementing regulations require payment, if possible, within 24 hours of death where eligible beneficiaries can be properly determined.

The evolution of the bill in Congress emphasizes the emergency-fund function of the death gratuity and demonstrates the importance Congress attached to having it paid to eligible survivors immediately. The first version of the revised death-gratuity law provided that payment be made only to dependent relatives. While dependency would have been presumed for a surviving widow or minor children, other relatives would have had to prove it. Because the requirement to prove dependency would in certain cases inevitably have slowed up the payment process, the bill ultimately adopted allowed payment to be made to non-minor children, parents, and brothers and sisters, as well as to spouses and minor children, without regard to their dependency status.[4]

When H.R. 7089, 84th Cong., 2d sess. (1956), was under consideration, the amount of death gratuity payable on the death of a service member was still equal to "six months' pay."[5] Because of the items of compensation included within the "pay" on which death-gratuity entitlements were to be determined, the actual amount of death gratuity payable could have ranged from a low of $468, for a member in pay grade E-1 "under 2" with no special or incentive pays, to a much larger amount for senior officers with special and incentive pays. (Six months' basic pay for the most senior officer grade amounted to $8,648 in 1956.) The committee concluded that the amounts payable were too small to adequately serve an emergency-fund purpose for the survivors of lower-pay-grade personnel and so large as to be excessive in the case of survivors of personnel nearer the top of the pay scale. Accordingly, the Servicemen's and Veterans' Survivor Benefits Act, ch. 837, *id*., though it retained the general principle of a death gratuity equal to six months' pay, placed an $800 floor and a $3,000 ceiling on payments. Imposing a minimum and a maximum on entitlements blurred the pay-related distinctions resident in the gratuity program. Inflation long since had completely eliminated the original distinctions. The effect of the combination of increasing pay rates and the $3,000 ceiling so warped the "six months' pay" principle of death gratuity as to make any coupling of those two terms misleading.

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[4] The order of precedence among survivors for death-gratuity payments is specified at 10 U.S.C. §1477(a).

[5] For the purpose of determining the amount of death gratuity payable under 10 U.S.C. §1478 when the amount was computed as a multiple of monthly basic pay—it no longer is, see below—the term "pay" was defined in 10 U.S.C. §101(27), the predecessor of present 10 U.S.C. §101(a)(15), to include "basic pay, special pay, ... incentive pay, ... and equivalent pay, but ... not ... allowances."

Congress again examined the question of the basis and appropriate level of the death gratuity in connection with its consideration of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, 100 Stat. 3816 (1986). In Senate Bill S. 2638, 99th Cong., 2d sess. (1986), the Senate proposed changing the basis for computing death-gratuity benefits so as to give survivors three months of basic pay, basic allowance for subsistence, and basic allowance for quarters, with a minimum payment of $3,000 and a maximum payment of $9,000. In support of this proposal, the Senate Armed Services Committee noted:

> The death gratuity, originally instituted in 1908, is designed to provide immediate funds to the family of deceased military members to meet immediate expenses. The rates of the death gratuity have not changed since 1956. Under present law, this payment is equal to six month's basic pay (plus any special and incentive pays) with a minimum of $800 and a maximum of $3,000. Because of increases in pay rates since 1956, the death gratuity for all personnel is $3,000.
>
> The President's *Fifth Quadrennial Review of Military Compensation* recommended that the death gratuity be updated to better meet the needs of survivors of military personnel. The committee agrees that this benefit should be updated....[6]

The Senate proposal was rejected in conference, with the following explanation:

> Currently, the death gratuity is equal to six months of basic pay with a minimum payment of $800 and a maximum payment of $3,000.
>
> The Senate bill contained a provision ... that would change the death gratuity computation to three months of basic pay, basic allowance for subsistence, and basic allowance for quarters with a minimum payment of $3,000 and a maximum payment of $9,000.
>
> . . .
>
> The conferees note that, although the death gratuity was established in 108, the military estate program has been expanded to include social security benefits, dependency and indemnity compensation, and Serviceman's [*sic*] Group Life Insurance (SGLI). The maximum SGLI payment was recently increased to $50,000.[7] [8]

In thus rejecting the Senate proposal to increase the amount of the death gratuity payable upon the death of a member, Congress apparently determined that the total amount of money payable on the death of a member was in some sense adequate but notably failed to make any findings on the adequacy of the "emergency fund" made available to survivors under the death-gratuity program.

Under the pay raise effected by the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §601(b), 104 Stat. 1485, 1575 (1990), the lowest rate of basic pay for any member of the armed forces—specifically, a member in pay grade E-1 with less than four months of service—was $697.20 per month,[9] so that the death gratuity for all members was $3,000, and no distinction was made on the basis of the "pay" received by a deceased member immediately before the member's death. The prescribed $800 minimum was then, and had long been, totally without effect. No matter how "pay" was viewed—whether as regular military compensation (RMC) under 37 U.S.C. §101(25) or as "pay" under 10 U.S.C.

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[6] S. Rep. No. 99-331 (Committee on Armed Services), at 234, accompanying S. 2638, 99th Cong., 2d sess. (1986).

[7] H.R. Rep. No. 99-1001 (Committee of Conference), at 484, accompanying S. 2638, 99th Cong., 2d sess. (1986).

[8] The maximum SGLI insurance amount has since been increased three times—first, to $100,000 by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §336(a), 105 Stat. 75, 89–90 (1991); second, to $200,000 by the Veterans Benefits Act of 1992, Pub. L. No. 102-568, §201, 106 Stat. 4320, 4324 (1992); and to $250,000 by the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. No. 106-419, 114 Stat. 1822 (2000). See Chapter III.D.2., "Servicemen's Group Life Insurance, Veterans' Group Life Insurance," hereof, above.

[9] See Executive Order 12736 of December 12, 1990, Schedule 8, 55 Fed. Reg. 51385, set out at 5 U.S.C.A. §5332 note. Also see at 67 of Chapter II.B.1., "Basic Pay," above.

§101(a)(15)[10]—no survivor, regardless of the pay grade of the deceased member, received a death gratuity equal to the member's "pay" for six months. Indeed, no survivor received a death gratuity as great as six months' basic pay of the deceased member.

The Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §307, 105 Stat. 75, 82–83 (1991), temporarily increased the amount of the death gratuity payable under 10 U.S.C. §1478(a) from $3,000 to "$6,000 for a death resulting from any injury or illness incurred during the Persian Gulf conflict or during the 180-day period beginning at the end of the Persian Gulf Conflict."[11] [12]

The temporary increase in the amount of the death gratuity from $3,000 to $6,000 made by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §307, 105 Stat. 75, 82–83 (1991), was made permanent later that same year by the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §652, 105 Stat. 1290, 1387–1388 (1991).[13] This amendment to 10 U.S.C. §1478(a) was made retroactive to August 2, 1990, the beginning of the Persian Gulf conflict. The Military Family Tax Relief Act, Pub. L. No. 108-121, 117 Stat. 1337 (2003), increased the death gratuity from $6,000 to $12,000 and made the increased allowance retroactive to deaths occurring on or after September 11, 2001. The National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1520 (2003), enacted the same provisions. Pub. L. No. 108-121 also exempted the full amount of the death gratuity from federal taxation; previously, one-half of the amount had been taxable.

The Servicemen's and Veterans' Survivor Benefits Act, ch. 837, Pub. L. No. 84-881, §§301–304, 70 Stat. 857, 868–69 (1956), as amended by the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §604(e), 100 Stat. 3816, 3877 (1986), made the survivors of a member who died within 120 days after release from active-duty or inactive-duty training, eligible for a death gratuity, but only if the Veterans Administration[14] determined that the death resulted from disease or injury incurred or aggravated during such duty. As administered, this provision is inconsistent with the death-gratuity-as-an-immediate-emergency-fund theory of the rest of the program. Before a gratuity can be paid in this situation, the Department of Veterans Affairs, after being notified, must obtain information concerning the circumstances of the death and details from the individual's service medical history, compare and evaluate those data, make its service-connection determination, and advise the military service in which the member was serving of the result. A lapse of several months is normal to this procedure.

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[10] See footnote 5 to this chapter, above.

[11] Pursuant to the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §3(2), 105 Stat. 75, 77 (1991), the term "Persian Gulf conflict" was defined to mean "the period beginning on August 2, 1990, and ending thereafter on the date prescribed by presidential proclamation or by law."

[12] See H.R. Rep. No. 102-16, Part 1 (Committee on Armed Services), at 11, accompanying H.R. 1175, 102d Cong., 1st sess. (1991).

[13] See H.R. Rep. No. 102-60 (Committee on Armed Services), at 251, accompanying H.R. 2100; S. Rep. No. 102-113 (Committee on Armed Services), at 226, accompanying S. 1507; and H.R. Rep. No. 102-311 (Committee of Conference), at 554, 102d Cong., 1st sess. (1991), all recommending that the temporary increase be made permanent. No consideration was given to the question of whether the amount of the gratuity paid to a survivor should or should not be in any way related to the rate of pay earned by the decedent at the time of death.

[14] The Veterans Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, §2, 102 Stat. 2635. Pursuant to that act, from and after March 15, 1989, all references in any federal law, executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. See Department of Veterans Affairs Act, Pub. L. No. 100-527, *id*., §10, 102 Stat. 2640–2641; also see 38 U.S.C.A. §201 note. (Some references to the "Veterans Administration" or "VA" have been retained in the present chapter, largely for historical reasons. It should be understood, however, that the federal agency currently charged with authority for administering the laws and regulations formerly administered by the Veterans Administration is the Department of Veterans Affairs.)

The National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004), authorized increases in the death gratuity consistent with increases in rates of basic pay. The National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136 (2006), increased the death gratuity from $12,000 to $100,000 for those covered under sections 1475–1477 of USC Title 10. The same law also provided for an additional retroactive death gratuity of $150,000 for those who died on active duty between October 7, 2001, and August 31, 2005, and had not previously been entitled to the benefit.

The National Defense Authorization Act for Fiscal Year 2008 amended section 1477 of Title 10 of the United States Code to allow a member to designate one or more persons to receive all or part of the death gratuity in 10 percent increments and set forth an order of precedence for distributions in the absence of a designated recipient. The order of precedence includes surviving spouse, surviving children and their descendants, surviving parents (which could also include a father or mother through adoption), and then to the member's estate.[15]

The National Defense Authorization Act for Fiscal Year 2012 amended section 1475 of Title 10 of the United States Code to clarify the death gratuity benefit available to members of the Reserve Component who die during an authorized stay at their residence during or between successive days of inactive duty training. According to the new paragraph, such a person is considered to have been on inactive duty training at the time of his death.[16]

Current amount of death gratuity authorized: The current amount of death gratuity authorized under 10 U.S.C. §1478(a) is $100,000.

Cost: For the cost of death-gratuity payments from 1972 to 2016, see table III-11, below.

Table III-11. Death Gratuity, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officer	Cost ($000)	Enlisted	Cost ($000)
1972	7,498	$16,481	1,486	$3,999	6,012	$12,482
1973	5,472	13,310	1,093	3,005	4,379	10,305
1974	3,400	9,009	612	1,836	2,788	7,173
1975	3,420	9,391	577	1,727	2,843	7,664
1976	3,066	8,477	462	1,378	2,604	7,099
1977	2,733	7,791	424	1,262	2,309	6,529
1978	2,861	8,156	561	1,670	2,300	6,486
1979	2,636	7,804	446	1,336	2,190	6,468
1980	2,613	7,822	375	1,121	2,238	6,701
1981	2,545	7,636	365	1,095	2,180	6,541
1982	2,396	7,188	424	1,272	1,972	5,916
1983	2,367	7,101	323	969	2,044	6,132
1984	2,465	7,377	385	1,155	2,080	6,222
1985	2,104	6,312	309	927	1,795	5,385
1986	2,267	6,801	311	933	1,956	5,868
1987	2,162	6,486	249	747	1,913	5,739

[15] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title VI, Sec. 645, 122 Stat. 3, 158 (2008).
[16] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle E, Sec. 651, 125 Stat. 1466, 1467 (2011).

Fiscal Year	Total Personnel	Cost ($000)	Officer	Cost ($000)	Enlisted	Cost ($000)
1988	1,996	5,987	244	732	1,752	5,255
1989	2,004	6,013	232	696	1,772	5,317
1990	1,736	5,207	213	639	1,523	4,568
1991	6,492	48,378	316	1,879	6,176	46,499
1992	1,610	9,658	210	1,257	1,400	8,401
1993	1,318	7,908	159	954	1,159	6,954
1994	1,176	7,056	144	864	1,032	6,192
1995	1,134	6,804	142	852	992	5,952
1996	1,089	6,534	158	948	931	5,586
1997	983	5,898	149	894	834	5,004
1998	1,059	6,354	168	1,008	891	5,346
1999	970	5,763	137	767	833	4,996
2000	1,339	6,618	359	1,045	980	5,573
2001	1,039	5,394	460	1,657	579	3,737
2002	1,959	11,754	384	2,304	1,575	9,450
2003	5,171	32,524	2,206	13,457	2,965	19,067
2004	2,607	30,581	449	5,387	2,158	25,194
2005	3,935	163,250	785	34,557	3,150	128,693
2006	6,620	609,297	1,112	103,360	5,508	505,937
2007	2,157	215,723	542	54,263	1,615	161,460
2008	1,665	166,125	238	23,400	1,427	142,725
2009	1,974	197,400	658	65,768	1,316	131,632
2010	1,573	157,300	211	21,058	1,362	136,242
2011	1,613	160,802	181	18,118	1,432	142,684
2012	1,416	141,530	167	16,680	1,249	124,850
2013	1,191	119,097	166	16,600	1,025	102,497
2014	979	97,928	116	11,636	863	86,292
2015	882	88,114	129	12,909	753	75,205
2016[1]	815	81,500	119	11,900	696	69,600

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter III.D.4.
Dependency and Indemnity Compensation (DIC)

Legislative Authority: Chapter 13 of Title 38, United States Code, 38 U.S.C. §§1301–1323.

Purpose: To authorize a payment to the surviving dependents of a deceased military member partially in order to replace family income lost due to the member's death and partially to serve as reparation for the death.

Background: Compensation for the dependent survivors of U.S. military personnel was first provided by a 1780 resolution of the Continental Congress that granted the widow and children of any officer who died as a result of Revolutionary War service half the officer's pay for seven years. No provision was made, however, for the survivors of enlisted personnel or for anyone else who died as a result of military service other than during the Revolutionary War. After expiration of the authority contained in the 1780 resolution, the Act of April 30, 1790, ch. 10, §11, Stat. 119, 121 (1790), established a disability-compensation program that covered both officer and enlisted personnel but made no provision for compensation for their survivors. Peacetime death compensation of half-pay for five years was, however, authorized for the survivors of officers by the Act of March 16, 1802, ch. 2, §15, 2 Stat. 132, 135 (1802). The widows and children of deceased enlisted personnel—together with officers—were made eligible for the five-year half-pay death compensation by the Act of March 19, 1836, ch. 44, §5, 5 Stat. 7 (1836). The time for which death compensation was paid was subsequently extended for additional five-year periods and finally for life or until the surviving spouse remarried. These "peacetime" death- compensation provisions covered persons who served in the War of 1812 and the Mexican War.

The preexisting death-compensation system was substantially revised during, and as a result of, the Civil War. In 1862, Congress, in the "general law" of the Act of July 14, 1862, ch. 166, 12 Stat. 566 (1862), established a disability-compensation program for members and a related new death-compensation program for survivors, the substance of which remained in effect until after the United States entered World War I. The "general law" provided for disability compensation based on a member's grade and degree of disability, with survivors being authorized the same death compensation as would have been allowed if the member, instead of having died, had been alive but totally disabled. [See Act of July 14, 1862, ch. 166, *id*., §§2, 3, 12 Stat. 567.]

The Act of October 6, 1917 (War Risk Insurance Act of 1917), ch. 105, Pub. L. No. 65-90, §301, 40 Stat. 398, 405–6 (1917), eliminated grade and degree of disability as factors determinative of survivor compensation. It provided instead a single rate for all widows plus a fixed additional sum for each child. The act also permitted military members to buy up to $10,000 of low-cost government life insurance to supplement the death compensation otherwise due their survivors under law. [See Act of October 6, 1917, ch. 105, *id*., §400, 40 Stat. 409.] The act's separate death-compensation and life-insurance programs amounted to the first legislative recognition that the government had an obligation to aid the survivors of persons killed in service with both "dependency" compensation, intended partially to replace the loss of income resulting from the member's death, and a damages-like "indemnity" payment, intended to serve in some sense as reparation for the death, to the extent a price could be set on human life.

The system of providing survivors both income maintenance through death compensation and reparation through government life insurance continued until the Insurance Act of 1951, §10, enacted as Part II of the Act of April 25, 1951, ch. 39, Pub. L. No. 82-23, §10, 65 Stat. 33, 36–38 (1951), terminated new issues of government life insurance. This act strengthened, however, rather than weakened, the practice of providing different-purpose "dependency" and "indemnity" payments to survivors: another provision substituted a blanket $10,000 indemnity payment for the optional life insurance that was terminated. [See Servicemen's Indemnity Act of 1951, §2, enacted as Part I of the Act of April 25, 1951, ch. 39, Pub. L. No. 82-23, §2, 65 Stat. 33, 33–34 (1951).] Thus, instead of being automatically eligible for death compensation and contingently eligible for government life insurance if the member had purchased such insurance and

kept premium payments current, survivors of active-duty members became eligible for both death compensation and the $10,000 servicemen's indemnity payment without any affirmative action on the member's part and without cost to the member.

The Servicemen's and Veterans' Survivor Benefits Act, ch. 837, Pub. L. No. 84-881, Title II, §§201–210, 70 Stat. 857, 862–68 (1956), replaced the preexisting death-compensation program and the $10,000 Servicemen's Indemnity Act payment by Dependency and Indemnity Compensation (DIC). The House Select Committee on Survivor Benefits explained its reasons for this action as follows:

> During the past 4 years a constant criticism of the $10,000 gratuitous indemnity has been that payments suddenly come to an end at a time when the needs of the recipient survivor remained unmitigated. In an effort to overcome this objection there was considerable testimony before the committee that the amount of the indemnity should be reduced, paid for a longer period certain, and in some cases payments continued for the life of the recipient.
>
> After careful analysis on this subject and lengthy deliberations, the committee concluded that this benefit should be terminated and payments formerly made under this program integrated with the existing Veterans' Administration compensation program by increasing significantly current compensation programs so as to reflect an indemnity increment therein. Thus these two separate and distinct survivor benefit programs administered by the Veterans' Administration would become one. To this limited extent one of the objectives of the committee, greater simplicity, would be accomplished and the long-term interest and equity of survivors protected.
>
> The committee feels that the upward adjustments of benefit payments which are set forth in this bill adequately and fully compensate future survivors and that there remains no necessity for any indemnity or Government insurance program to supplement the dependency and indemnity compensation rates....[1]

Although Congress intended that the DIC program provide survivors with both "dependency" and "indemnity" benefits, and though it believed at the time the program would make supplementary government life insurance unnecessary, in retrospect the General Counsel of the then Veterans Administration, now the Department of Veterans Affairs,[2] seems prescient when he testified:

> ... [R]egardless of the fact that the new form of compensation will be termed dependency and indemnity compensation, it is quite likely that it will not be widely accepted or understood as something materially different from the existing death compensation. Accordingly, it may be expected that as time moves on there will be demands for reinstatement of an in-service insurance program or an indemnity program additional to the compensation benefit. This possibility is emphasized by the fact that insurance, followed by indemnity, has been a distinct part of the system of benefits for survivors for nearly 40 years.[3]

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[1] H.R. Rep. No. 993 (Part 1) (Select Committee on Survivor Benefits), at 5–6, accompanying H.R. 7089, 84th Cong., 1st sess. (1955).

[2] The Veterans' Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, 102 Stat. 2635 (1988). Pursuant to that act, from and after March 15, 1989, all references in any federal law, executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. See Department of Veterans Affairs Act, Pub. L. No. 100-527, *id*., §10, 102 Stat. 2640–2641; see 38 U.S.C.A. §201 note.

[3] *Survivor Benefit Act: Hearings on H.R. 7089 before the Senate Committee on Finance*, 84th Cong., 2d sess., 136 (1956) (statement of Guy H. Birdsall, General Counsel, Veterans Administration).

The Servicemen's and Veterans' Survivor Benefits Act of 1956, ch. 837, Pub. L. No. 84-881, §202(a), 70 Stat. 858, 862 (1956), established a monthly DIC rate for widows of $112 plus 12 percent of the basic pay prescribed for the deceased member's pay grade and length of service. It was generally assumed, though never explicitly stated, that the $112 represented the "indemnity" element of the compensation and the 12 percent of basic pay, the "dependency" element. The $112 base figure was raised to $120 in 1963. [See Act of October 5, 1963, Pub. L. No. 88-134, §1, 77 Stat. 223 (1963).] The amount of DIC produced by the 12-percent-of-basic-pay side of the formula increased each time basic pay rates were increased. Eight such basic pay raises occurred during the period the formula was in effect.[4]

The Act of October 27, 1969, Pub. L. No. 91-96, §3, 83 Stat. 144, 144–45 (1969), discontinued the preexisting DIC formula in favor of a system prescribing flat rates by pay grade. This change was not related to the split "dependency" and "indemnity" concept; it stemmed from dissatisfaction with the linkage between basic pay and DIC. Junior personnel had benefited less from the eight basic pay raises than other personnel. Because of the partial tie-in between basic pay and DIC rates, their survivors had thus gained lesser DIC increases than other survivors.

As was predicted in 1956 during the hearings on the bill that established DIC, a program of in-service life insurance was reinstated some nine years later. Under 38 U.S.C. §1967(a), as amended by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §646, 110 Stat. 186, 369–70 (1996), military members were permitted to purchase up to $250,000 of low-cost Servicemen's Group Life Insurance. The amount of coverage was raised to $400,000 in 2005. [See Chapter III.D.2. hereof, "Servicemembers' Group Life Insurance, Veterans' Group Life Insurance," above.]

The Dependency and Indemnity Compensation Reform Act of 1992, enacted as Title I of the Veterans Benefits Act of 1992, Pub. L. No. 102-568, Title I, §102, 106 Stat. 4320, 4321–4322 (1992), changed the basis for determining the amount of DIC to be paid to a survivor of a deceased veteran. Under the new program, the amount of DIC to be paid to a survivor is not dependent on the pay grade of the deceased member. Rather, the 1992 law prescribed that DIC be paid to all surviving spouses at the rate of $750 per month, independently of the pay grade of the member.[5] An additional $165 per month was authorized for the surviving spouse of a veteran who, at the time of death, had been eligible to receive compensation for a service-connected disability that had been rated totally disabling for at least eight continuous years before the veteran's death, provided the surviving spouse had been married to the veteran at least eight years immediately before the veteran's death.[6] Additional amounts are authorized for a surviving spouse with minor children, the additional amount depending on how many minor children the surviving spouse has.[7]

The Veterans Compensation Cost-of-Living Adjustment Act of 2009 provides that the standard monthly rate of DIC for the survivor of a deceased veteran is increased from $1,091 to $1,154. This benefit amount is currently set at $1,254, which applies the most recent (December 2014) cost-of-living adjustment (COLA). COLAs are applied only where COLAs are adopted for Social Security benefits; absent a Social

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[4] See the tables showing increases in basic pay rates (by pay grade) subsequent to 1956 in Chapter II.B.1., "Basic Pay,"above.

[5] The $750 rate established under the Dependency and Indemnity Compensation Reform Act of 1992 has since been adjusted upward for cost-of-living increases that have occurred since 1992. Beginning December 1, 1995, the basic DIC rate for a surviving spouse of a member or former member dying after December 31, 1995, is $810 per month. See 61 Fed. Reg. 5836–5837 (1996).

[6] Codified at 38 U.S.C. §1311(a)(2).

[7] As enacted, a surviving spouse with minor children was entitled to an additional $100 per month per child during fiscal year 1993, $150 per child during fiscal year 1994, and $200 per child during fiscal year 1995.
See 38 U.S.C. §1311(b). With the cost-of-living adjustments effected by the Veterans' Compensation Cost-of-Living Adjustment Act of 1995, Pub. L. No. 104-57, §2(a) and (b)(8), 109 Stat. 555 (1995), as implemented by the Department of Veterans Affairs, a surviving spouse with minor children is entitled to an additional $205 per child beginning December 1, 1995.

Security COLA in 2015, this DIC benefit amount is still current in 2016. That act also increased the allotment for surviving spouses of veterans who had received a service-connected rating of total disability to $246 ($266) and the allotment for each minor child of such surviving spouses to $286 ($311).[8] The DIC program applies to veterans whose deaths occurred after December 31, 1992. DIC paid with respect to deceased veterans whose deaths occurred before January 1, 1993, is to be paid under the rates in existence before enactment of the Dependency and Indemnity Compensation Reform Act of 1992 or under the rates adopted by the act, both as adjusted from time to time for cost-of-living increases, whichever are higher.[9] [10]

As explained by Congress, the impetus for change in the DIC program was basic dissatisfaction with reliance on the member's or former member's military rank while on active duty as the primary determinant of the amount of DIC payable to survivors. During hearings, the point of view was frequently expressed that a new and "more equitable" payment system should be established "to better provide for ... survivors of individuals in the lower ranks who die while in service or as a result of a service-connected disability."[11] The Department of Veterans Affairs, in particular, voiced its support for changing the method for determining the amount of DIC payments to survivors:

> The large majority of DIC recipients are awarded the benefit following post-service deaths, many occurring several decades after separation from service. In those cases, the military rank attained by the deceased is not related to his or her income prior to death.
>
> . . .
>
> We find the inequity of payments made to spouses under the current program troublesome. DIC payments to a few spouses are in some cases three times those paid to other surviving spouses. Quite frankly, we are just not prepared to conclude that one family's loss from a service-connected death is somehow greater than another's, merely because their loved one attained a higher service rank.[12]

In response to these and other similar concerns, Congress amended the method for determining the amount of DIC payable to "establish parity among all surviving spouses."[13]

Numerous cost-of-living increases in the DIC schedule followed the 1969 and 1992 revisions—in 1971, annually from 1974 to 1982, twice in 1984, again in 1986, 1987, 1988, 1989, and annually since 1991. The most recent DIC cost-of-living increases were authorized by the Veterans' Compensation Cost-of-Living Adjustment Act of 2009 Pub. L. No. 111-37, 123 Stat. 1927 (2008). The following table shows, by pay grade, current DIC rates for surviving spouses of veterans deceased before January 1, 1993. A more

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[8] Veterans' Compensation Cost-of-Living Adjustment Act of 2009," Pub. L. No. 111-37, section 2, 123 Stat. 1927; U.S. Department of Veterans Affairs, "Compensation: Dependency and Indemnity Compensation—Effective 12/1/14," http://benefits.va.gov/COMPENSATION/current_rates_DIC.asp. Dollar figures in parentheses represent the benefit amounts with cost-of-living adjustments applied, current as of December 2014.

[9] 38 U.S.C. §1311(a)(3).

[10] As indicated in the table of DIC rates for surviving spouses of veterans who died before January 1, 1993, below, surviving spouses of veterans in pay grade E-6 and below are better off under the new DIC program, whereas surviving spouses of veterans in pay grade E-7 and above are better off under the old DIC program. This situation should continue over time, as identical cost-of-living increases have historically been made, and will most likely continue to be made, to the DIC rates under both programs.

[11] H.R. Rep. No. 753, Part I (Committee on Veterans' Affairs), at 10, accompanying H.R. 5008, 102d Cong., 2d sess. (1992); *cf.* H.R. Rep. No. 753, Part II (Conference on Ways and Means), at 5–6, accompanying H.R. 5008, 102d Cong., 2d sess. (1992).

[12] H.R. Rep. No. 753, Part I (Committee on Veterans' Affairs), at 28–29, accompanying H.R. 5008, 102d Cong., 2d sess. (1992).

[13] H.R. Rep. No. 753, Part I (Committee on Veterans' Affairs), at 11, accompanying H.R. 5008, 102d Cong., 2d sess. (1992).

complete description of the DIC program as currently effective and administered by the Department of Veterans Affairs[14] follows the table.

DIC Rates by Pay Grade
(Applicable to Survivors of Veterans Who Died before January 1, 1993)

Pay Grade	Monthly Surviving Spouse's DIC (2014 Rates)
Chief of Staff (Note 2)	$2,874
O-10	2,678
O-9	2,441
O-8	2,282
O-7	2,078
O-6	1,925
O-5	1,707
O-4	1,551
O-3	1,464
O-2	1,370
O-1	1,324
W-4	1,500
W-3	1,417
W-2	1,377
W-1	1,324
Senior Enlisted (Note 3)	1,542
E-9	1,429
E-8	1,370
E-7	1,297
E-6	1,254
E-5	1,254
E-4	1,254
E-3	1,254
E-2	1,254
E-1	1,254

Note 1: In addition to the amount set out in the column titled "Monthly Surviving Spouse's DIC," an additional $286 ($311) per month is authorized for each dependent child under age 18. A special additional amount is also authorized if the surviving spouse either is a patient in a nursing home or is helpless or blind, or so nearly helpless or blind as to need regular aid and attendance by a third person, or if the surviving spouse, although not completely helpless or blind, is disabled and permanently housebound. In the case of a helpless or blind surviving spouse, or a surviving spouse who is a patient in a nursing home, the additional amount authorized is $286 ($311) per month; in the case of a disabled and permanently housebound surviving spouse, the amount is $135 ($145) per month. See 38 U.S.C. §1311(b), (c), and (d). Notwithstanding the amounts set out in the table above, the minimum spousal DIC benefit is $1520 (this figure factors in the cost-of-living adjustment and is the sum of the basic compensation plus the rate of increase for total disability) in the case of a deceased veteran rated totally disabled for a period of eight continuous years immediately before the veteran's death if the surviving spouse was married to the veteran for those same eight years.[15]

[14] See footnote 2 to this chapter, above.
[15] U.S. Department of Veterans Affairs, "Compensation: Dependency and Indemnity Compensation—Effective 12/1/14," http://benefits.va.gov/COMPENSATION/current_rates_DIC.asp.

Note 2: The surviving spouse of a member or former member of one of the armed forces who served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard is entitled to $2,643 ($2,873) per month as Dependency and Indemnity Compensation. Note 2 to the table set out at 38 See U.S.C. §1311(a)(3).[16]

Note 3: The surviving spouse of a member or former member of one of the armed forces who served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard is entitled to $1,419 ($1,542) per month as Dependency and Indemnity Compensation.[17]

DIC—PROGRAM DESCRIPTION

Dependency and indemnity compensation (DIC) was established by the Servicemen's and Veterans' Survivor Benefits Act, ch. 837, Pub. L. No. 84-881, Title II, §§201–210, 70 Stat. 857, 862–68 (1956), and became effective January 1, 1957. It was designed to provide indemnification to certain survivors of veterans who died during military service as well as to survivors of veterans who died after military service as a result of service-connected disabilities. It was also designed to provide partial compensation to survivors for economic losses attributable to veterans' deaths. In 1982 the Veterans' Compensation, Education, and Employment Amendments of 1982, Pub. L. No. 97-306, §112(a), 96 Stat. 1429, 1432 (1982), extended DIC eligibility to survivors of certain veterans who were totally disabled as a result of service-connected conditions at the time of death but whose deaths were determined not to be service-related.

The rate of DIC payable to a surviving spouse of a veteran who died before January 1, 1993, is based on the decedent veteran's pay grade while on active duty or on the rate established by the Dependency and Indemnity Compensation Reform Act of 1992 (as thereafter adjusted for cost-of-living increases[18]), enacted as Title I of the Veterans' Benefits Act of 1992, Pub. L. No. 102-568, §102, 106 Stat. 4320, 4321–4322 (1992), whichever is higher. The rate of DIC payable to a surviving spouse of a veteran who died after December 31, 1992, is based on the rate established by the Dependency and Indemnity Compensation Reform Act of 1992 (as thereafter adjusted for cost-of-living increases[19]), enacted as Title I of the Veterans' Benefits Act of 1992, Pub. L. No. 102-568, §102, 106 Stat. 4320, 4321–4322 (1992). If a veteran died while on active duty before January 1, 1993, the pay grade on which the survivors' DIC payments are based is generally the veteran's pay grade on the date of death; if a veteran died after service, the pay grade on which DIC payments are based is generally the veteran's pay grade at the time of separation from service.

Income and need are not factors in determining a surviving spouse's entitlement to DIC, but if a surviving spouse is also entitled to Survivor Benefit Plan payments (SBP)[20] under Subchapter II or Subchapter III of Chapter 73 of Title 10, United States Code, 10 U.S.C. §§1447–1460b, SBP payments must be offset by the amount of DIC the surviving spouse receives. Surviving spouses who are themselves so severely disabled that they are housebound or need the regular aid and attendance of another person may be entitled to a special allowance in addition to basic DIC.

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[16] U.S. Department of Veterans Affairs, "Compensation: Dependency and Indemnity Compensation—Effective 12/1/14," http://benefits.va.gov/COMPENSATION/current_rates_DIC.asp (accessed May 6, 2016).
[17] U.S. Department of Veterans Affairs, "Compensation: Dependency and Indemnity Compensation—Effective 12/1/14," http://benefits.va.gov/COMPENSATION/current_rates_DIC.asp (accessed May 6, 2016).
[18] The most recent adjustments to DIC rates were effected by the Veterans' Compensation Cost-of-Living Adjustment Act of 2009, Pub. L. No. 111-37, 123 Stat. 1927 (2008). The adjustments were effective December 1, 2008.
[19] See preceding footnote.
[20] See Chapter IV.C.2., "Survivor Benefit Plan," below.

A surviving spouse entitled to DIC may receive additional benefits on behalf of unmarried children under the age of 18. Benefits payable on behalf of an unmarried child end when the child reaches age 18. The child may then claim DIC benefits in his or her own right so long as the child is attending school, although school-related benefits are not payable after the child reaches age 23. Under another provision of law, a child who became permanently incapable of self-support before reaching age 18 due to mental or physical disability is entitled to DIC benefits for as long as the mental or physical disability exists. A child under age 18 may receive DIC benefits in his or her own right only if there is no surviving spouse who is entitled to DIC benefits. DIC benefits payable to eligible dependent children and other persons who became eligible during childhood are set out at 38 U.S.C. §§1313 and 1314, as amended pursuant to the Veterans' Benefits of 2003, Pub. L. No. 107-330, 116 Stat. 2820 (2002).

A surviving parent or parents may in some cases also be entitled to DIC. While a parent's basic entitlement depends on the service-connected death of the parent's veteran son or daughter, the DIC payable to a surviving parent depends on the parent's income and marital status. No DIC entitlement exists if a parent's income exceeds a statutorily prescribed limit. A parent who is in need of the regular aid and attendance of another person may be entitled to a special allowance in addition to whatever DIC payment has been awarded.[21]

The DIC program is administered by the Department of Veterans Affairs.[22]

Cost: For the cost of dependency and indemnity compensation from 1972 to 2015, see table III-12, below.

Table III-12. Dependency and Indemnity Compensation (DIC), 1972–2015

Fiscal Year	Number of Beneficiaries	Cost ($000)
1972	375,354	$699,677
1973	373,643	737,346
1974	371,202	760,060
1975	368,955	860,167
1976	367,601	955,956
1976–TQ[1]	366,873	242,563
1977	364,881	1,046,240
1978	362,189	1,120,057
1979	360,688	1,215,677
1980	357,971	1,344,644
1981	355,018	1,534,942
1982	350,000	1,702,000
1983	346,000	1,825,000
1984	341,000	1,868,000
1985	338,000	1,957,000
1986	331,394	2,021,498
1987	327,689	2,063,000
1988	325,246	2,162,499
1989	322,969	2,258,058
1990	320,095	2,352,333
1991	319,356	2,482,294
1992	315,357	2,586,018

[21] DIC benefits payable to eligible surviving parents are set out at: http://www.vba.va.gov/bln/21/Rates/ comp04.htm.
[22] See footnote 2 to this chapter, above

Fiscal Year	Number of Beneficiaries	Cost ($000)
1993	311,748	2,831,054
1994	308,236	2,973,747
1995	307,443	3,103,230
1996	309,461	3,090,476
1997	308,758	3,190,088
1998	307,760	3,256,639
1999	309,164	3,321,256
2000	311,435	3,430,378
2001	312,000	3,558,024
2002	314,555	3,687,144
2003	319,102	3,792,986
2004	324,019	3,880,151
2005	328,809	4,098,112
2006	325,939	4,298,197
2007	334,638	4,492,616
2008	337,819	4,639,687
2009	341,114	4,954,933
2010	346,954	5,039,771
2011	355,474	5,164,514
2012	366,430	5,513,339
2013	376,979	5,800,916
2014	382,263	5,924,203
2015	390,309	6,158,539

[1] Transitional Quarter

Note: Values for years prior to 1986 include persons receiving death compensation.

Source: U.S. Department of Veterans Affairs, *Annual Benefits Reports* (FY 2011–17).

Chapter IV.A.
Overview of Supporting Benefits

The military compensation system incorporates a number of benefits that have over the years grown to have special importance for the morale of members of the armed forces and their dependents.[1] Some of these benefits directly support the active- and inactive-duty military forces of the United States; others support both active-duty and inactive-duty forces as well as retired members and their dependents. This Chapter IV of *Military Compensation Background Papers: Compensation Elements and Related Manpower Cost Items—Their Purposes and Legislative Backgrounds* covers two major groupings of benefits. Those groupings are military benefits that are applicable to active-duty and reserve personnel and their dependents, on the one hand, and benefits that are applicable to both active-duty and retired members and their dependents, on the other hand.[2] The first group of these benefits is covered in Chapter IV.B.; the second, in Chapter IV.C.

Some of the benefits covered in this Chapter IV of *Military Compensation Background Papers* have analogues or counterparts in civilian compensation benefit systems; others—such as commissaries and exchanges—do not. Even in the first case, however, the military benefits are specially tailored to take into account the distinctive conditions of military service. Thus, while civilian compensation benefit systems typically incorporate health-care insurance benefits, military health-care benefits are disproportionately oriented to the provision of in-kind health care to members of the armed forces and their dependents. Similar but different distinctions apply to all of the benefits covered by this Chapter IV that have some counterpart in civilian compensation benefit systems—except for government contributions to Social Security.

The principles and concepts of military compensation that are exemplified by the system of supporting benefits covered in this Chapter IV of *Military Compensation Background Papers* are focused on the overall effectiveness of the compensation system, in both peace and war; on the achievement of substantial equity for members of the armed forces, especially in the sense of establishing a compensation system that is generally competitive with compensation in the private sector; on the interrelationship between the military manpower requirements of the United States and the compensation system considered as a whole; and on motivation of members and potential members of the armed forces.

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[1] For a discussion of the importance of military benefits to morale of members of the armed forces and their dependents, see the 1976 report of the Defense Manpower Commission, which refers to the most important of these as "institutional benefits." Defense Manpower Commission, *Defense Manpower: The Keystone of National Security* (Washington, DC: GPO, 1976).

[2] Post-service and death benefits—also important to members of the armed forces—are covered in Chapters III.C. and III.D., above (Chapter III.C. covers separation pays and related post-service benefits, whereas Chapter III.D. covers benefits specially applicable to retired personnel and their dependents).

Chapter IV.B.1.
Annual Leave/Accrued Leave Payments/Leave Lost

Legislative Authority: Annual Leave—10 U.S.C. §§701–704. Accrued Leave Payments—37 U.S.C. §501.

Purpose: To authorize members of the uniformed services to take a specified number of days of leave of absence, or vacation, for rest and relaxation away from their respective duty stations; to allow the accumulation for later use of earned leave that cannot be currently used because of military, or other, exigencies; and to authorize cash payments as reimbursement for accrued leave remaining unused at the expiration of a member's term of service.

Background: The background and legislative history of the Armed Forces Leave Act of 1946, ch. 931, Pub. L. No. 79-704, 60 Stat. 963 (1946), the basic source of the current military leave system, are discussed in detail following the summary discussion immediately below.

Summary: Under the present statutory leave system, members of the uniformed services earn leave at the rate of 2 1/2 days per month of active service. Such members may accumulate no more than 60 days of leave as of the end of a fiscal year. Exceptions to this standard occur when a member enters a missing status, serves in a hostile fire pay area for 120 days or longer, or is assigned to a type of duty designated by the Secretaries of the military departments and approved by the Secretary of Defense as duty in which the member is unlikely to be able to use annual leave. Unused accrued leave in excess of 60 days is lost at the end of the fiscal year.

Data submitted by the Army and Air Force for fiscal years 1973 and 1974 indicated leave usage by military personnel averaging 22.2 days per man-year.[1] At that same time, an average of 7.2 days of leave was accumulated to be used later or, if not used or lost, to be reimbursed in cash when the member's term of service expired. In the process of reducing leave balances to 60 days at the end of each fiscal year, members lost an overall average of 0.6 days per year.

In percentage terms, as of 1974 uniformed services personnel used approximately 74 percent of their annual leave on a current basis, accumulated 24 percent, and lost 2 percent. The loss of leave has not, however, always been evenly spread across the force. Before 1976, enlisted personnel typically lost very little leave because they could be reimbursed for unused leave at the end of each enlistment. Career officers, on the other hand, have typically lost an average of six to 22 days per year. An officer loses leave when his or her leave balance at the start of the fiscal year, plus the 30 days earned and minus the number of days taken during the year, exceeds 60 days at the end of the fiscal year. Leave lost by military personnel in fiscal year 1974 had an estimated lump-sum reimbursement value of about $28 million, most of the burden of which fell on officers.

Members discharged, retired, or released from active duty under honorable conditions, or their survivors in the case of deceased members, are entitled to reimbursement, in a lump-sum cash payment, for not more than 60 days of unused accrued leave. The 60-day ceiling does not apply to payments made to or on behalf of personnel in a missing status. A member's unused leave payment is computed on the basis of the basic pay to which he or she was entitled on the date of separation. An enlisted member is eligible for payment for unused accrued leave each time he or she is discharged at the expiration of the enlistment or on the effective date of a first extension of an existing enlistment, even if there is no break in service, although, as covered more fully below, the enlisted member is limited to a maximum of 60 days of accrued

[1] In using leave, members of the uniformed services are required to take leave for Saturdays, Sundays, and holidays—i.e., for days that, in the civilian work force, are regarded as normal days off—as well as for days that, in the civilian work force, are regarded as normal workdays.

leave pay during his or her military career. Payment of unused accrued leave is subject to taxation, just as is the basic pay on the basis of which such payments are computed.

Before enactment of the Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §304, 90 Stat. 923, 925–26 (1976), payment for unused accrued leave was based on basic pay, basic allowance for quarters, and basic allowance for subsistence for both officer and enlisted personnel, as well as personal money allowance for certain senior officers. Under amendments to the accrued-leave program made by the 1977 Appropriation Authorization Act, Pub. L. No. 94-361, *id*., payment for unused accrued leave is now made taking only basic pay into account [see 37 U.S.C. §501(b)(1)],[2] although payment for leave accrued before July 14, 1976, is computed taking basic pay, basic allowance for quarters, basic allowance for subsistence, and personal money allowance, if any, into account [see 37 U.S.C. §501 note].[3]

Congress's purpose in amending the system of payment for military unused accrued leave to exclude all items of pay other than basic pay was explained as follows:

> Section 304 of the Senate amendment to the House bill would ... limit to 60 days the reimbursement for unused leave during a military member's career. This amendment would delete authority for payment of quarters and subsistence allowances as a part of this reimbursement for leave accrued after the enactment of this legislation....
>
> The House vigorously opposed the portion of this amendment deleting subsistence and quarters allowances from leave payments. However, the Senate was adamant.
>
> The conferees agreed that the purpose of authorizing leave is to provide personnel rest and respite from the arduous duties of military service and not to encourage the accumulation of unused leave for additional pay. The Senate conferees argued that the provision, and particularly the elimination of payment for quarters and subsistence in payments for unused leave, would encourage military members to take leave rather than accumulate it.
>
> Under current law, officers and enlisted personnel are treated differently in the payment of quarters and subsistence for unused leave. By eliminating such payments, the Senate provision would treat all recipients of unused leave payments in the same manner.[4]

In thus attempting to discourage members from accumulating leave, Congress did not address the fact that accumulation of unused leave may result more from military necessity than member choice. In an effort to alleviate the most serious of such problems, Congress, in the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §10, 94 Stat. 3359, 3368 (1980), provided that a member "assigned to a deployable ship, mobile unit, or to other duty designated for the purpose of this section"—i.e., 10 U.S.C. §701, relating to entitlement to and accumulation of leave—could accumulate up to 90 days of leave, but also required that any leave so accumulated in excess of 60 days had to be used by the member before the end of the fiscal year after the fiscal year in which the qualifying service ended. As reflected in the relevant congressional report, Congress was mainly concerned about leave lost because of operational exigencies:

> Under current law, military personnel may not accumulate more than 60 days leave, except for members receiving hostile fire pay for at least 120 days, who may accumulate 90 days. The additional 30 days for these individuals must be used within a year after the end of the assignment.

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[2] Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §304(c), 90 Stat. 923, 925 (1976).

[3] Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §304(h), 90 Stat. 923, 926 (1976).

[4] H.R. Rep. No. 94-1305 (Committee of Conference), at 45, accompanying H.R. 12438, 94th Cong., 2d sess. (1976).

> The extended length of the Indian Ocean deployments have resulted in personnel losing leave to which they are entitled because they cannot leave their ship. The committee recommendation includes a provision to allow the Service Secretary to extend the benefit of accumulating leave to Service members on ships or at other locations on long deployments.[5]

In an amendment to the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*., effected by the Department of Defense Supplemental Authorization Act, 1981, Pub. L. No. 97-39, §702, 95 Stat. 939, 943 (1981), the provisions in question were made retroactively applicable to personnel assigned to qualifying duty after September 30, 1979.

In a further amendment to the program of payment for unused accrued leave, the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1031(a), 97 Stat. 614, 671 (1983), extended the period within which unused leave accrued as a result of lengthy deployments and other "military exigencies"[6] could be taken. Before passage of the 1984 Authorization Act, leave accrued as a result of "military exigencies" had to be taken before the end of the fiscal year following the fiscal year in which the leave was accrued; under the amendment to 10 U.S.C. §701(f) effected by the 1984 Authorization Act, an affected member is permitted to use such leave any time before the end of the third fiscal year after the fiscal year the leave was accrued. A companion provision[7] made this change retroactively applicable to leave accumulated as a result of "military exigencies" after September 30, 1980. [See 10 U.S.C. §701 note.] In support of these changes, the Senate Armed Services Committee noted:

> Primarily in response to extensive Indian Ocean naval deployments, the Congress [in the Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, *id*.] authorized certain members to carry forward up to 90 days leave (rather than 60 days) under certain circumstances. This provision has been used effectively by the services not only for long naval deployments but also for the augmentation of military air traffic controllers to the Federal Aviation Administration (FAA). However, that law requires that the leave accrued in excess of 60 days must be used before the end of the fiscal year following the fiscal year in which the excess leave was accrued. For example, excess leave accrued during a deployment in fiscal year 1980 had to be used before the end of fiscal year 1981 or be lost. In fact, some members were unable, due to military exigencies, to use the accrued excess leave they had carried over, and therefore, they actually lost leave.
>
> As a result of this unintended penalty to the member and to enhance personnel management, the Committee recommends extending by two years the date by which excess accrued leave must be used or lost by those eligible to carry forward excess leave. This extension will grant appropriate relief to deserving members who serve on long, arduous deployments or who are not otherwise able to use their leave because of unique, operational requirements such as the FAA augmentation. Also, to redress the penalty already imposed on members who wrongly lost leave as a result of this provision, the Committee intends this change to be retroactive to leave accrued during fiscal years 1980, 1981 and 1982 and thereafter so that the lost leave can be reinstated.[8]

In a similar vein, various ad hoc exceptions to the 60-day career limitation on payments for unused accrued leave have been adopted from time to time. See, e.g., National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §1115, 104 Stat. 1485, 1636–1637 (1990), as amended by Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §314, 105

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[5] S. Rep. No. 96-1051 (Committee on Armed Services), at 6–7, accompanying H.R. 7626, 96th Cong., 2d sess. (1980).
[6] S. Rep. No. 98-174 (Committee on Armed Services), at 231, accompanying S. 675, 98th Cong., 1st sess. (1983).
[7] Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1031(b)(1) and (2), 97 Stat. 614, 671 (1983).
[8] S. Rep. No. 98-174 (Committee on Armed Services), at 231–32, accompanying S. 675, 98th Cong., 1st sess. (1983). See H.R. Rep. No. 98-213 (Committee of Conference), at 239–40, accompanying S. 675, 98th Cong., 1st sess. (1983).

Stat. 75, 86 (1991) (60-day career limitation not applicable to leave accrued during the Persian Gulf conflict by members serving on active duty in connection with Operation Desert Storm), and Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §309, 105 Stat. 75, 83 (1991) (60-day limitation not applicable to leave payments to survivors of a member of the uniformed services who died as a result of an injury or illness incurred while serving on active duty in the Persian Gulf conflict with respect to leave accrued during fiscal years 1990 and 1991).[9]

Given the not infrequent need for making such ad hoc exceptions to the prohibitions on excess leave accumulation, the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §638, 105 Stat. 1290, 1384 (1991), added a provision to permanent law pursuant to which "a member of an armed force who serves on active duty ... in support of a contingency operation" [10] may accrue up to 90 days of leave in the fiscal year in which the member was involved in such an operation or the following fiscal year if the member would otherwise lose accumulated leave in excess of 60 days, provided that the leave in excess of 60 days must be used before the end of the following or next following fiscal year, respectively.[11] A similar exception was made to the provision that limits the amount of accrued leave for which a member may receive payment to include the survivors of service members who die while on duty in support of a contingency operation, as well as reserve and retired members serving on active duty in support of such an operation. [See National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §637, 105 Stat. 1290, 1383–1384 (1991).] As indicated in the relevant House and Senate reports, these provisions were adopted to "make permanent the temporary authority provided in the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §1115, 104 Stat. 1485, 1636–1637 (1990), to allow military personnel serving in support of a contingency operation to accrue up to 90 days of leave."[12] The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1152 (2001), provided for payment for unused leave in excess of 60 days for a new category of personnel: members of reserve components on duty for less than one full year, without the stipulation that such members have been on active duty in support of a contingency operation. This category includes reserve personnel on active duty, full-time National Guard duty, and active duty for training for more than 30 but fewer than 365 days.

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[9] For the purposes of these provisions, the term "Persian Gulf conflict" was defined as the "period beginning on August 2, 1990, and ending thereafter on the date prescribed by presidential proclamation or by law." See Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §3(3), 105 Stat. 75, 77 (1991).

[10] The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §631, 105 Stat. 1290, 1380 (1991), further amended Titles 10 and 37, United States Code, by providing a definition of the term "contingency operation," as follows:

> The term "contingency operation" means a military operation that—
>
> (A) is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
>
> (B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 672(a), 673, 673b, 673c, 688, 3500, or 8500 of this title [Title 10, United States Code], chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

The subject provision is codified at 10 U.S.C. §101(a)(13), whereas the definition of "contingency operation" codified to Title 37, United States Code, merely provides that for the purposes of the latter title "[t]he term 'contingency operation' has the meaning given that term in section 101 of title 10." See 37 U.S.C. §101(26).

[11] Codified at 10 U.S.C. §701(f)(2).

[12] S. Rep. No. 102-113 (Committee on Armed Services), at 225, accompanying s. 1507, 102d Cong., 1st sess. (1991). See H.R. Rep. No. 102-60 (Committee on Armed Services), at 250, and H.R. Rep. No. 102-311 (Committee of Conference), at 552–53, accompanying H.R. 2100, 102d Cong., 1st sess. (1991).

The National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1478 (2003), further adjusted the rules governing accrual of more than 60 days of leave. This provision allowed members who serve for 120 continuous days either in an area eligible for special pay under 37 U.S.C. §310(a) or assigned to a deployable ship, mobile unit, or other duty comparable to that specified in that section, to accumulate up to 120 days of accrued leave. These members may retain that leave until the end of the third year in which the qualifying duty was performed.

The 60- and 90-day limitations on accumulations of unused accrued leave do not apply to payments to survivors of members who die while on active duty[13] or to members in a missing status.[14] [See 10 U.S.C. §701(g).] Under the provisions of 37 U.S.C. §501(h), leave accumulated by a member while in a missing status may not be taken by the member after the member is removed from such status but must be paid for.

The National Defense Authorization Act for Fiscal Year 2008 added a new paragraph (6) to 37 USC 501(b), allowing enlisted personnel who have accumulated more than 120 days of leave to sell back up to 30 days of such leave on a one-time basis. Other provisions included: 1) the increase from 60 to 75, the number of days of accumulated leave military personnel may carry over from one fiscal year to the next and 2) permission for an additional fiscal year after the current fiscal year for personnel serving in support of contingency operations to retain any accumulated leave in excess of 90 days.[15] From 2008 through 2015, Congress temporarily increased (from 60 to 75 days) the amount of leave that could be carried over. The increase was to recognize that the high operations tempo of the war resulted in less opportunity for members to use their earned leave. On Oct 1, 2015, the statutory limit on the amount of leave a member could carry over from one fiscal year to the next reverted back to 60 days. Any accumulated leave above the 60 day limit was lost at the beginning of the fiscal year.

The Ike Skelton National Defense Authorization Act for Fiscal Year 2011 added new paragraphs (4) and (5) to 37 USC 501(a), which defines "discharge." Under the new paragraph (4), officers or enlisted members of a reserve component are "discharged" when they are not serving on active duty, have been separated or released under honorable conditions, or have died; new paragraph (5) applies to the termination of an enlistment in conjunction with the commencement of a successive enlistment or appointment as officer. This law also added paragraph (k) to 10 USC 701, allowing members of the reserves to carry over accumulated leave to next period of active service, without regard to separation or release from active service, if that separation or release is under honorable conditions. Additionally, the law authorizes members to be reimbursed for such leave if they retire or separate from reserve service under honorable conditions.[16]

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[13] 37 U.S.C. §501(d)(1) and (2) as amended by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §641(a), 110 Stat. 186, 368 (1996). See S. Rep. No. 104-112 (Committee on Armed Services), at 258, accompanying S. 1026, 104th Cong., 1st sess. (1995); *cf.* H.R. Rep. No. 104-406 (Committee of Conference), at 819, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 809, accompanying S. 1124, 104th Cong., 2d sess. (1996).

[14] See 37 U.S.C. §551(2) concerning the circumstances under which a member is deemed to be in a "missing status." Also see that portion of Appendix VII, "Special Pay and Other Benefits for Missing Persons, Prisoners of War (POWs), and Victims of Terrorism," titled "Missing Persons," below.

[15] National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Title V, Subtitle E, Sec. 551, 122 Stat. 3, 117 (2008); Library of Congress, Congressional Research Service, "H.R.4986—National Defense Authorization Act for Fiscal Year 2008.

[16] Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, Title V, Subtitle A, Sec. 516, 124 Stat. 4137, 4213 (2011); Library of Congress, Congressional Research Service, "H.R. 6523—Ike Skelton National Defense Authorization Act for Fiscal Year 2011."

Cost: For the cost of payments for unused accrued leave from 1972 to 2009, see table IV-1, below.

Table IV-1. Annual Leave/Accrued Leave Payments/Leave Lost, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	877,664	$431,573	71,594	$109,583	806,070	$321,990
1973	705,751	427,523	43,913	96,364	659,838	331,159
1974	647,722	403,323	40,234	92,983	607,488	310,340
1975	601,537	379,414	32,272	69,457	569,265	309,957
1976	559,699	346,179	32,403	68,114	527,296	278,065
1977	436,890	275,490	26,190	63,984	410,700	211,506
1978	384,554	250,907	25,257	63,317	359,297	187,590
1979	398,470	260,340	26,682	71,900	371,788	188,440
1980	364,617	243,200	24,251	67,672	340,366	175,528
1981	343,083	236,366	19,815	54,862	323,268	181,504
1982	331,296	246,085	18,809	57,421	312,487	188,664
1983	332,925	256,028	18,331	58,454	314,594	197,574
1984	312,468	256,141	21,079	68,302	291,389	187,839
1985	310,305	247,435	21,005	64,421	289,300	183,014
1986	318,596	266,197	21,428	70,788	297,168	195,409
1987	315,699	284,957	23,347	78,633	292,352	206,324
1988	372,138	322,780	24,560	86,011	347,578	236,769
1989	313,840	313,561	25,027	94,803	288,813	218,758
1990	296,061	299,433	24,749	88,537	271,312	210,896
1991	378,590	405,053	35,136	126,438	343,454	278,615
1992	394,703	437,392	32,824	142,763	361,879	294,629
1993	342,618	408,376	39,247	154,733	303,371	253,643
1994	309,623	358,804	30,966	124,496	278,657	234,308
1995	241,561	273,499	24,278	93,210	217,283	180,289
1996	215,162	241,836	22,854	81,623	192,308	160,213
1997	205,826	240,282	20,559	80,109	185,267	160,173
1998	184,892	212,745	19,664	73,819	165,228	138,926
1999	185,330	210,693	19,502	68,681	165,828	142,012
2000	194,890	217,197	18,463	62,960	176,427	154,237
2001	178,895	203,582	17,766	57,147	161,129	146,435
2002	144,979	177,875	14,007	47,263	130,972	130,612
2003	172,650	224,550	14,417	52,606	158,233	171,944
2004	153,561	221,663	14,254	53,029	139,307	168,634
2005	194,647	266,607	13,791	60,276	180,856	206,331
2006	146,037	241,333	16,489	69,179	129,548	172,154
2007	148,674	212,413	15,774	62,480	132,900	149,933
2008	126,251	186,377	17,863	50,721	108,388	135,656
2009	134,024	226,641	12,495	69,491	121,529	157,150
2010	160,807	255,417	16,190	67,188	144,617	188,229
2011	179,217	298,876	20,728	86,121	158,489	212,755
2012	175,930	356,273	20,599	101,828	155,331	254,445
2013	188,427	381,109	23,056	106,949	165,371	274,160

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2014	182,277	351,494	20,664	99,426	161,613	252,068
2015	157,787	314,559	17,988	89,694	139,799	224,865
2016[1]	155,321	302,523	14,928	73,686	140,393	228,837

[1] Estimate.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; and Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter IV.B.2.
Voluntary Education and Training

Legislative Authority: 10 U.S.C. §§2005 and 2007; 38 U.S.C. §§3001–3036 and 3451–3485.

Purpose: (1) To aid in the recruitment and retention of members of the armed forces and to upgrade the skills of such members; and (2) to provide financial assistance to military personnel to enable them to develop educationally and professionally while in service and to encourage them to continue their education after leaving service.

Background: Voluntary education and training, although they may serve as an attraction and retention incentive and benefit the military services by contributing to more effective performance, primarily benefit the individual members who take advantage of them. The principal types of voluntary education and training are (1) the tuition-assistance program for off-duty education at civilian educational institutions, (2) the Predischarge Education Program, and (3) the Educational Assistance Program of the GI Bill. The latter programs are designed for "veterans," a category that by definition includes in-service military personnel who have served on active duty for more than 180 days. These programs are under the jurisdiction of the Department of Veterans Affairs[1] and are funded by that agency.

The program for tuition assistance was started immediately after World War II. There is no permanent statutory authority for tuition assistance; rather, such assistance is based on authority flowing from the appropriation of funds for the program in annual appropriations acts. Congress deleted funds earmarked for the Army officer program from the Department of Defense Appropriation Act, 1953, ch. 630, Pub. L. No. 82-488, 66 Stat. 517 (1952). The Department of Defense Appropriation Act, 1954, ch. 305, Pub. L. No. 83-179, §641, 67 Stat. 336, 356 (1953), prohibited the use of appropriated funds for the payment of tuition assistance for officers of any branch of service above pay grade O-2. At that time, the Air Force was paying 75 percent of tuition costs for approved off-duty education for both officer and enlisted personnel. The Army was paying 50 percent of tuition costs for enlisted personnel and had, until funds for the purpose were denied in fiscal year 1953, also been paying 50 percent of the costs for officers. The Navy and Marine Corps had paid 75 percent of such costs from 1949 through 1952, but in fiscal year 1953 such assistance was terminated for officers and reduced to 50 percent for enlisted personnel.[2]

The Department of Defense Appropriation Act, 1955, ch. 432, Pub. L. No. 83-458, §730, 68 Stat. 337, 355–56 (1954), removed the restriction on payment of tuition costs for officers above pay grade O-2 but stipulated that funds appropriated in the act be available only to commissioned personnel who agreed to remain on active duty for two years after completion of the training for which funds were received. Similar limiting language was included in later annual appropriation acts until an active-duty obligation was incorporated into permanent law in 1980. Under current 10 U.S.C. §2005, as added by the Act of September 24, 1980, Pub. L. No. 96-357, §2(a), 94 Stat. 1178, 1180–1182 (1980), and as later amended by the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1003(b)(1), 97 Stat. 614, 656–57 (1983), the Secretaries of the military departments may require as a condition of providing educational assistance that a person agree to remain on active duty for a specified period.

The Department of Defense Appropriation Act, 1955, ch. 432, *id*., also limited payments to not more than 75 percent of charges of educational institutions for tuition and expenses of off-duty training of

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[1] The Veterans Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, 102 Stat. 2635 (1988). Pursuant to that act, from and after March 15, 1989, all references in any federal law, executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. See Department of Veterans Affairs Act, Pub. L. No. 100-527, *id*., §10, 102 Stat. 2640–2641; see 38 U.S.C.A. §301 note.
[2] *Hearings on H.R. 5969 before the Subcommittee of the Senate Committee on Appropriations*, July 10, 1953, 83d Cong., 1st sess., 2055–2057 (1953).

military personnel. In general, similar limitations have been incorporated in the appropriations acts from 1955 to the present.

It is Department of Defense policy that the services fund the tuition-assistance program to the maximum extent consistent with current legislation for both officer and enlisted personnel. There is no legal restriction on the courses of study that may be pursued under the program; a course may lead to an associate, baccalaureate, or higher degree, or to a high school diploma, or it may comprise technical/occupational study. However, emphasis is placed on courses that enhance a member's competence in his or her military career field.

The Veterans' Readjustment Benefits Act of 1966, Pub. L. No. 89-358, 80 Stat. 12 (1966), is one of the series of laws popularly and collectively known as the "GI Bill." As relates to voluntary education and training, the act authorizes the payment by the Department of Veterans Affairs[3] of an educational-assistance allowance to veterans who have served on active duty for more than 180 days without a break in service and who are enrolled in an approved college, graduate or undergraduate, professional, trade or technical, high school, elementary school, or correspondence course conducted by a civilian educational or training institution. The benefits available under this GI Bill program are included within the present treatment of voluntary education and training because members of the armed forces who are still on active duty are within the class of eligible beneficiaries. Generally speaking, the benefits provided under the Veterans' Readjustment Benefits Act of 1966 must be used by an eligible veteran within the 10-year period commencing on the date of the veteran's last discharge or release from active duty after January 31, 1955.

As of October 2003, the VA educational-assistance allowance for active-duty members was equal to the cost of tuition, fees, books, and supplies peculiar to the course being pursued, limited to a maximum of $985 a month. Entitlement to the allowance is computed on the basis of 1 1/2 months (or the equivalent in part-time educational assistance) for each month of active service performed after January 31, 1955. The entitlement period for the allowance may not exceed 36 months, except that it may be extended to the end of the term, quarter, or semester when it would otherwise end, or, in schools not operated on one of those systems, to the end of the course or for 12 weeks, whichever is less, when the period of entitlement ends after more than half the course has been completed. The 36-month limit on the GI Bill educational-assistance allowance applies to all veterans, and any period of entitlement used during active service is charged against this limit.

The Veterans' Educational Assistance Act of 1987, enacted as Title VII of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, Title VII, §§701–709, 98 Stat. 2492, 2553–2572 (1984), added a Chapter 30 to Title 38, United States Code, establishing the All-Volunteer Force Educational Assistance Program. In addition to being intended to aid members of the armed forces in their readjustment to civilian life after separation from military service, the Education Assistance Act was intended to promote and assist the all-volunteer-force program by establishing a new educational-assistance program to aid in recruitment and retention of highly qualified personnel in the active and reserve components of the armed forces and to give special emphasis to providing education-assistance benefits to aid in the retention of personnel in the armed forces. [See 38 U.S.C. §3001 (stating purposes of the "All-Volunteer Force Educational Assistance Program") as added by Section 702 (a)(1) of the Veterans' Educational Assistance Act of 1984, enacted as part of Title VII of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, *id*., §702(a)(1), 98 Stat. 2553–2554.] The All-Volunteer Force Educational Assistance Program, which applies to persons who first became members of the armed forces or first entered on active duty as members of the armed forces after June 30, 1985, is administered mainly by the Department of Veterans Affairs and is, for that reason, treated in Chapter V.B.2.,"Veterans' Educational Assistance (GI Bill)," below. Persons on active duty as well as veterans may take advantage

[3] H.R. Rep. No. 96-498 (Committee on Veterans' Affairs), at 19, accompanying H.R. 5288, 96th Cong., 1st sess. (1979).

of the All-Volunteer Force Educational Assistance Program, commonly known as the "Montgomery GI Bill."

The Veterans' Education and Training Amendments Act of 1970, Pub. L. No. 91-219, §204(a)(4), 84 Stat. 76, 80–81 (1970), established the Predischarge Education Program ("PREP"). The program's chief aim was to enhance the schooling of educationally deficient service members in order to encourage them to take advantage of the GI Bill after separation from active duty. To this end, the act permitted the payment of a VA educational-assistance allowance equal to cost of tuition, fees, books, and supplies peculiar to the course, but not more than $270 a month, to individuals who had completed more than 180 days of active service and who were enrolled in an elementary, secondary, preparatory, refresher, remedial, deficiency, or special educational course conducted by an approved civilian educational or training institution.

Although PREP was designed primarily as a pre-separation program, PREP courses also could be taken after release from active duty by veterans who were separated without a secondary-school diploma or equivalency certificate, or who needed the PREP course or courses for a program of education for which they would be eligible but for such course or courses. No charge was made against an individual's period of entitlement to educational assistance under the GI Bill because of enrollment in PREP courses, either while in service or after discharge.

The legislative authority for PREP was repealed by the Veterans' Rehabilitation and Education Amendments of 1980, Pub. L. No. 96-466, §601(a)(1), 94 Stat. 2171, 2208 (1980), because the "continued need for this program ... no longer is apparent" and the benefits available under the program were also "available in the military service."[4]

Cost: For the cost of voluntary education and training benefits from 1972 to 1976, see table IV-2, below.

Table IV-2. Voluntary Education and Training, 1972–76

Fiscal Year	Total Personnel	Cost ($000)	Officers	Enlisted
1972	245,000	$43,800	61,000	184,000
1973	287,000	77,100	68,000	219,000
1974	361,400	87,900	87,000	274,000
1975	416,000	108,700	100,000	316,000
1976	535,000	123,000	128,000	407,000

Note: No data are available for any year following fiscal year 1976.

[4] Includes base-level education centers; general educational development programs; tuition assistance; other off-duty education; and Predischarge Education Program (VA funded).

Chapter IV.B.3.
Mortgage Insurance Premiums

Legislative Authority: 12 U.S.C. §1715m (Section 222 of the National Housing Act, ch. 847, Pub. L. No. 73-479, 48 Stat. 1246 (1934), as added by the Housing Act of 1954, ch. 649, Pub. L. No. 83-560, Title I, §124, 68 Stat. 590, 603–5 (1954)).

Purpose: To authorize the Department of Defense to pay FHA mortgage premiums that individual service members would otherwise have to pay in order to make more uniform the federal housing-assistance programs for such personnel and for veterans.

Background: The National Housing Act, ch. 847, Pub. L. No. 73-479, 48 Stat. 1246 (1934), created the Federal Housing Administration (FHA) and established a program under which that agency insures the payment of mortgages on family dwellings to encourage commercial lenders to make home loans to private individuals. The law requires that the FHA charge a premium, which is based on the loan principal, on all mortgages it insures. The charge is levied on the mortgagee but passed on to the borrower; in practice, it is normally added to the borrower's mortgage payments. The reason for the charge is to establish a reserve against which the FHA can draw to cover the costs of meeting obligations on defaulted loans.

The Servicemen's Readjustment Act of 1944, ch. 268, Pub. L. No. 78-346, Title III, §§501–503, 58 Stat. 284, 291 (1944), commonly called the GI Bill, created a home loan guarantee program for veterans.[1] The GI Bill is a loan-guarantee, rather than a mortgage- insurance program, under which the government absorbs any losses resulting from defaulted loans. Persons covered by the GI Bill thus do not have to pay a recurring charge similar to the FHA mortgage premium.

Neither the National Housing Act nor the GI Bill was of much value with respect to the home-buying needs of career service personnel. Lacking community roots, such personnel typically found it difficult to obtain private financing for a home, even with FHA mortgage-insurance backing. In addition, they often could not qualify for a GI loan guarantee because, originally, such a guarantee was available only to personnel separated from active service, and not to those who remained on active duty.

The Servicemen's Housing Mortgage Insurance program (SMI) was created by the Housing Act of 1954, ch. 649, Pub. L. No. 83-560, Title I, §124, 68 Stat. 590, 603–5 (1954), to help overcome these problems. The SMI was designed to provide, within the framework of the National Housing Act, home-financing assistance similar to that authorized for veterans under the GI Bill to in-service personnel with more than two years of active service. Because SMI is part of the National Housing Act, rather than the Servicemen's Readjustment Act, an FHA premium had to be paid on each insured mortgage. Since a veteran did not have to pay a similar charge under the GI Bill, however, the SMI program required that the military services pay the premium for their in-service members (and for the surviving spouse of a member who dies on active duty, for up to two years after the member's death) from funds appropriated for the Department of Defense family-housing management account. When the SMI program was set up in 1954, Congress indicated that the FHA mortgage premiums of in-service personnel were subsidized because no charges were imposed under the GI Bill for which SMI was supposed to be an in-service substitute. This subsidy was not discontinued, even though the later extension of GI Bill eligibility to in-service personnel removed the original reason for it.

Until Department of Defense participation in the program was administratively discontinued, in-service personnel were eligible for FHA mortgage insurance on a single-family dwelling or a one-family unit in a condominium project under the SMI program without regard to the size of the mortgage. The amount of the mortgage insured, however, could not exceed a maximum loan-to-value ratio of 97 percent of the first $25,000 of the FHA-appraised value of the property, plus 95 percent of the appraised value above $25,000, in the case of mortgages covering dwellings that (i) were appraised for mortgage insurance

[1] See Chapter V.B.3., "GI Bill (Home Loan Assistance)," below.

before the beginning of construction, (ii) were approved for guaranty, insurance, or a direct loan by the then-Veterans Administration[2] before the beginning of construction, (iii) were completed more than one year before the date of the application for mortgage insurance, or (iv) were covered by a consumer protection or warranty plan acceptable to the Secretary of Defense, in the case of members of the Army, Navy, Air Force, or Marine Corps, the Secretary of Transportation, in the case of members of the Coast Guard, or the Secretary of Commerce, in the case of members of the United States National Oceanic and Atmospheric Administration; or in the case of any dwelling not so approved, 90 percent of the appraised value, subject to further limitations on the maximum mortgage-insurance exposure of the federal government.

The Housing and Economic Recovery Act of 2008 repealed this program.[3]

Cost: For the cost of mortgage insurance premiums from 1972 to 1985, see table IV-3, below (data for armed forces personnel after 1985 are not available).

Table IV-3. Mortgage Insurance Premiums, 1972–85

Fiscal Year	Total Personnel	Cost ($000)
1972	---	$4,205
1973	47,297	3,756
1974	39,029	3,163
1975	37,790	3,293
1976	34,289	3,088
1977	23,915	2,466
1978	21,900	2,528
1979	18,367	1,483
1980	17,417	2,637
1981	11,705	2,228
1982	9,464	1,500
1983	8,151	1,200
1984	5,584	1,100
1985	7,111	1,600

--- No data available.

Note: The 1985 figures include data on all uniformed services personnel, i.e., mortgage insurance premiums for members of the Public Health Service and the National Oceanic and Atmospheric Administration are included in these figures together with premiums for members of the Coast Guard and the other armed forces. Data for armed forces personnel are not available after 1985.

[2] The Veterans Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, 102 Stat. 2635 (1988). Pursuant to that act, from and after March 15, 1989, all references in any federal law, executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. See Department of Veterans Affairs Act, Pub. L. No. 100-527, *id*., §10, 102 Stat. 2640–2641; see 38 U.S.C.A. §201 note.
[3] Housing and Economic Recovery Act of 2008, Pub. L. 110-289, Title I, Sec. 2120(a)(5), 122 Stat.2835 (2008).

Chapter IV.B.4.
Medical Care (Service Members and Dependents)

Note: Resource constraints led to the decision not to update all of the health sections in this eighth edition of Military Compensation Background Papers. Chapter IV.B.4. contains relevant health-related information that has not been updated since 2008.

Current Legislative Authority: Chapter 55 of Title 10, United States Code, 10 U.S.C. §§1071–1110.

Purpose: To make medical care available to members of the uniformed services and their dependents in order to help ensure the availability of physically acceptable and experienced personnel in time of national emergency; to provide incentives for armed forces personnel to undertake military service and remain in that service for a full career; and to provide military physicians and dentists exposure to the total spectrum of demographically diverse morbidity necessary to support professional training programs and ensure professional satisfaction for a medical service career.

Background: The armed forces have traditionally provided medical care for active-duty personnel as an integral part of their primary mission. The armed forces must not only be prepared to care for casualties in the event of conflict, they must also maintain the health of active-duty members in peacetime so that affected personnel are ready to respond promptly to whatever military demands may arise. Having medical facilities and personnel necessary to meet their primary mission within legislative constraints imposed by Congress, the armed forces have also provided medical care to dependents of active-duty personnel when it has been possible to do so without adversely affecting their ability to provide medical care to active-duty personnel.

Before 1956, the statutory basis for dependent medical care in military treatment facilities was fragmentary, with resulting disparities in the types of care provided, in the categories of dependents eligible for care, and in access to care. Dependents without access to medical facilities of the uniformed services had to pay the full cost of any care they received from civilian sources. Consequently, dependents with access to military medical-care facilities had a significant advantage over those in areas with no such facilities or in areas where there were too few facilities to meet the joint needs of the active duty and dependent populations.

The Dependents' Medical Care Act of June 7, 1956, ch. 374, Pub. L. No. 84-569, 70 Stat. 250 (1956), provided a statutory basis for furnishing medical care to members and certain former members of the uniformed services and their dependents by setting forth categories of dependents eligible for medical care and the types of care to be provided in facilities of the uniformed services.[1] The principal new feature of the law, however, was the authority given the Secretary of Defense to contract with civilian sources for the medical care of spouses and children of members of the uniformed services on active duty. As indicated in the relevant congressional report, an improved system of dependent medical care was needed as part of a program to make military careers more attractive and to meet the competition offered by private industry, which frequently extended liberal medical-care benefits.[2]

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[1] The provisions covering members and former members are currently codified at 10 U.S.C. §1074; the provisions setting forth the categories of dependents eligible for medical care, at 10 U.S.C. §1076; and the types of medical and dental care that may be given to dependents, at 10 U.S.C. §§1077 and 1076a, respectively. Dependents of a member of the uniformed services are eligible for medical and dental care at "facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff." 10 U.S.C. §1076(a).

[2] S. Rep. No. 1878 (Committee on Armed Services), at 2, accompanying H.R. 9429, 84th Cong., 2d sess. (1956).

Except for an amendment eliminating a statutory requirement that the parent military department of a beneficiary receiving care in a medical facility of another military department reimburse the other military department for the care given, the medical-care provisions remained unchanged until 1966.

The Military Medical Benefits Amendments of 1966, Pub. L. No. 89-614, §2(6), 80 Stat. 862, 863–65 (1966), established far broader authority for the military departments to contract for health care for beneficiaries to supplement the care provided by military treatment facilities. The implementation of this authority as a government self-insured program became known as the Civilian Health and Medical Program of the Uniformed Services, popularly called CHAMPUS. The CHAMPUS legislation came about in response to changed practices in the civilian sector of the economy by which civilian health-care plans added outpatient care to the traditional coverage for inpatient care for both employees and their dependents. Except for limited access to military treatment facilities, there was no government-supported program for outpatient care for dependents of active-duty personnel or for retirees and their dependents prior to this legislation. The principal features of the legislation, which used the Blue Cross-Blue Shield High Option Plan of the Federal Employees' Health Benefits Program as a model, established partial government payment for new and expanded inpatient and outpatient care provided by civilian sources to designated beneficiaries. The act also slightly expanded the types of care that military facilities were authorized to provide. The benefits payable under CHAMPUS were not quite as extensive as those authorized in military medical facilities, and some beneficiaries eligible for care in military facilities—primarily parents and parents-in-law of active-duty members—were not eligible for care under CHAMPUS.

The legislation required the dependents of active-duty members to share in the cost of the authorized care provided under CHAMPUS at a level less than that specified for retired members and their dependents. For dependents of active-duty members, the act required them to pay the greater of $25 for each hospital admission or the same nominal daily fee imposed for inpatient care in military medical facilities. For outpatient care, dependents had to meet a fiscal-year deductible of $50 per individual, with a $100 family limit, and 20 percent of the allowed charges for care after the deductible had been met, provided that a member or a member's family group of two or more persons may not be required to pay a total of more than $1,000 for health care received under CHAMPUS during any fiscal year.[3]

Among the differences between CHAMPUS and the Federal Employees' Health Benefits Program was that civilians had to pay a part of the monthly premium but could choose from a variety of plans with different annual benefit structures, while dependents of active-duty personnel did not have to pay a premium but also had no choice. CHAMPUS is also unlike the different Federal Employees' Plans in that, under CHAMPUS, beneficiaries are generally required to obtain non-emergency inpatient care from nearby

[3] The $1,000 annual limit on deductibles and copayments for members and their families was added to the CHAMPUS program, at 10 U.S.C. §1079(b)(5), by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §721(a), 101 Stat. 1019, 1115–1116 (1987), to serve as a protection or "cap" against "catastrophic loss," H.R. Rep. No. 100-446 (Committee of Conference), at 650, accompanying H.R. 1748, 100th Cong., 1st sess. (1987), and to prevent "the potential of wiping-out a family financially," H.R. Rep. No. 100-58 (Committee on Armed Services), at 217, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). 10 U.S.C.A. §1079(b)(5). *Cf.* S. Rep. No. 100-57 (Committee on Armed Services), at 150, accompanying S. 1174, 100th Cong., 1st sess. (1987), which dealt only with placing a "limitation on out-of-pocket expenses for co-payments and deductibles" for members of the active-duty force. (The 1988/1989 Defense Authorization Act, Pub. L. No. 100-180, *id.*, §721(b), 101 Stat. 1115, established a $10,000 "cap" on out-of-pocket expenses for medical care for retirees and their families. See 10 U.S.C.A. §1086(b)(4). See also Chapter III.D.1., "Retired Members Medical Care," above. The House–Senate conferees expressed regret at having to adopt a $10,000 "catastrophic cap for retiree families, due to budget constraints" and indicated an intention to "address this level of catastrophic loss protection again in the future." See H.R. Rep. No. 100-446 (Committee of Conference), at 650, accompanying H.R. 1748, 100th Cong., 1st sess. (1987). No similar concern was expressed over the $1,000 cap on deductibles and copayments for members of the active-duty forces and their families. The $10,000 cap for retirees and their families was reduced to $7,500 by the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §703(a), 106 Stat. 2315, 2432 (1992). See Chapter III.D.1., "Retired Members Medical Care," above.)

military medical facilities if such care is available there. Thus, CHAMPUS provides only a part of the medical care its beneficiaries receive, and CHAMPUS is not, on that account, directly comparable to the various plans available to participants in the Federal Employees' Health Benefits Program, which provide for complete medical care to beneficiaries.

The Military Medical Benefits Amendments of 1966, Pub. L. No. 89-614, §2(6), 80 Stat. 862, 863–65 (1966), also established a specialized program of financial assistance for active-duty members with spouses or children who were either moderately or severely mentally retarded or seriously physically handicapped. Known as the Program for the Handicapped, it has no known counterpart in other federal or civilian health-care plans. In 1971 eligibility for this program was extended to dependents of active-duty members who died while eligible for hostile fire pay—formerly known as combat pay—or who died from a disease or injury incurred while eligible for such pay.

The Military Medical Benefits Amendments of 1966, Pub. L. No. 89-614, §2(4), 80 Stat. 862, 863 (1966), allowed only extremely limited dental care under CHAMPUS: only that care necessary as an adjunct to medical or surgical treatment of other than a dental condition. In military dental facilities, a broad range of dental services could be provided at overseas locations on a space-available basis, but in the United States only emergency dental care and dental care as an adjunct to medical and surgical care were generally available. An exception to this United States limitation was in areas where adequate civilian dental care was not available, such as at remote duty stations, but even there, only on a space-available basis.

This situation changed with the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §633, 98 Stat. 2492, 2544 (1984), which authorized broad-based dental care in all military dental facilities to the degree that space for such care was available, effective July 1, 1985.[4] However, uniformed services dental facilities and dental manpower remained relatively limited, so that access to dental care for dependents in most locations continued to be quite limited.

As explained by Congress, the reason for extending such care to dependents of active-duty personnel was related to two factors. First, the Senate had earlier noted that, while "an increasing number of civilian firms ... [had] added dental programs as part of their health care benefits, dental care insurance programs are not available to most dependents of active duty personnel ... [and] the cost of private dental care is prohibitive for many families, especially those of junior enlisted personnel."[5] Second, the Senate also noted that, because of "fiscal constraints," it was "unlikely that the Congress will authorize a dental insurance program for active duty dependents along the lines of the current CHAMPUS program."[6]

Despite the Senate's 1984 expression of the opinion that enactment of a program for dental care from civilian sources was unlikely, the Congress authorized just such a program the following year. The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §651, 99 Stat. 583, 655–56 (1985), provided for voluntary enrollment in a basic dental benefit for dependents of active-duty members, with enrollees sharing in the costs of monthly premiums through payroll deductions. Rather than as an extension of CHAMPUS, the authorization was for a competitively awarded, fixed-price contract with a contractor. The authorization also provided that no dental contract could be entered before September 30, 1986.[7] [See 10 U.S.C. §1076a.] In authorizing the dental program, Congress appears to have been concerned that even

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[4] See 10 U.S.C. §1077(a)(10).

[5] S. Rep. No. 98-174 (Committee on Armed Services), at 230, accompanying S. 675 (relating to the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94), 98th Cong., 1st sess. (1983). See S. Rep. No. 98-500 (Committee on Armed Services), at 224–25, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[6] S. Rep. No. 98-500 (Committee on Armed Services), at 224, accompanying S. 2723, 98th Cong., 2d sess. (1984). See S. Rep. No. 98-174 (Committee on Armed Services), at 230, accompanying S. 675 (relating to the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94), 98th Cong., 1st sess. (1983). *Cf.* H.R. Rep. No. 98-1080 (Committee of Conference), at 299–300, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[7] Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §651(c), 99 Stat. 583, 656 (1985); see 10 U.S.C. §1076a note.

though it had broadened the dental care that might be provided in military facilities, there would be only limited access to such care:

> ... Given the dental care requirements of the active duty force, ... the amount of care available to dependents on a space-available basis will remain very limited.[8]

Congress also indicated that the program was related in part to the need to be competitive with what was happening in the civilian employment sector:

> Although dental care was not a common component of private sector health plans when the Civilian Health and Medical Program of the Uniformed Services was revised and expanded in 1966, it has become increasingly so in recent years .... [R]outine dental care has become increasingly common in larger industries.... In order to remain competitive with private industry employers who direct recruiting efforts at skilled, mid-career military personnel, the committee believes that the services need a dependent dental care benefit as a component of the compensation package. A recent survey of the military medical care system beneficiary population indicated that dental care for active-duty dependents was a priority item.[9]

Benefits under the new dental program extend to preventive, diagnostic, and emergency services, for which enrollees have no liability for allowed charges, and to fillings, dental-appliance repairs, and stainless-steel crowns for children's primary teeth, for which the enrollee's charge is 20 percent of allowed charges. Thus, the benefit is relatively limited in that it does not cover the generally more costly dental procedures such as orthodontia, treatment of gum disease, root-canal therapy, adult crowns, or dental bridges.

The National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §707(a), 100 Stat. 3816, 3905 (1986), amended the dependents' dental program by providing that the maximum monthly premium that could be charged for enrollment of a member and the member's dependents in the program was $10. The amendment was offered—in substitution for a provision that required the Secretary of Defense to set premium levels—to clarify the original intent of Congress in adopting the dependents' dental program in the first instance.[10]

In the most extensive revisions to the military medical-care provisions of Title 10, United States Code, since enactment of the Military Medical Benefits Amendments of 1966, Pub. L. No. 89-614, 80 Stat. 862 (1966), Congress, in the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §§701–702, 100 Stat. 3816, 3894–3900 (1986), supported Department of Defense initiative to change the CHAMPUS program by enactment of a number of additions and changes to Chapter 55 of Title 10, United States Code. First, Section 702 of the 1987 Authorization Act required the Secretary of Defense, as a part of the so-called CHAMPUS Reform Initiative, to conduct a demonstration project (i) to improve competition among civilian providers of health-care services to the Department of Defense beneficiaries, (ii) to test the relative merits of having beneficiaries of the military health-care system use a voucher system or fee schedule for the provision of health-care services, and (iii) to ensure that community hospitals are given equal consideration with other health-care providers for the provision of health-care services under contracts with the Department of Defense. As set out in Section 702(a) of the act itself, the purpose of the demonstration project was to improve the effectiveness of the CHAMPUS health-care payment system through the competitive selection of health-care contractors in the civilian sector of the economy who would be financially responsible for the delivery of defined health-care services to former members of the armed

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[8] H.R. Rep. No. 99-81 (Committee on Armed Services), at 238, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).
[9] H.R. Rep. No. 99-81 (Committee on Armed Services), at 238, accompanying H.R. 1872, 99th Cong., 1st sess. (1985); *cf*. H.R. Rep. No. 99-235 (Committee of Conference), at 435, accompanying S. 1160, 99th Cong., 1st sess. (1985).
[10] S. Rep. No. 99-331 (Committee on Armed Services), at 247, accompanying S. 2638, 99th Cong., 2d sess. (1986).

forces and their dependents (as well as to dependents of members). The demonstration project was required to be limited to one-third of the overall CHAMPUS program.[11]

Second, insofar as military retirees, their dependents, and survivors were especially concerned, the 1987 Authorization Act, Pub. L. No. 99-661, *id*., permitted the Secretary of Defense to contract with a variety of health-care providers and insurers for the provision of basic health-care services. Included within the scope of permitted contractors were health-maintenance organizations, preferred-provider organizations, individual providers, individual medical facilities, insurers, and consortiums of all such providers, facilities, and insurers. In addition, the act specifically authorized the Secretary of Defense to prescribe premiums, deductible amounts, copayment percentages or amounts, and other health-care charges for affected beneficiaries.

Third, while authorizing the Secretary of Defense to prescribe premiums, deductibles, copayments and the like, the 1987 Authorization Act, Pub. L. No. 99-661, *id*., also specifically authorized the Secretary to waive beneficiary financial liabilities. The Secretary was permitted to waive such payments as an inducement to beneficiaries of the military health-care system to enroll in alternative health-care programs that, while being no more costly to the government, would provide equal or better services. In addition to being permitted to waive various beneficiary liabilities, the Secretary was also permitted to waive limitations on the kinds of health-care services that could be provided as a part of the inducement to beneficiaries to enroll in more cost-effective health-care plans.

Fourth, the 1987 Authorization Act, Pub. L. No. 99-661, *id*., required the Secretary of Defense to establish a health-care enrollment system for beneficiaries of the military health-care program. Under the enrollment system, beneficiaries would be permitted to choose a health-care plan from a number of alternative plans designated by the Secretary of Defense. Eligible health-care plans would include health-care facilities of the uniformed services, CHAMPUS providers, and all health-care plans contracted for by the Secretary of Defense, together with any combination of such plans. An exception to the freedom to choose enrollment could apply where it was deemed necessary to assign beneficiaries to health-care facilities of the uniformed services in order to ensure full use of such facilities in a particular geographic area. The Secretary's authority to waive certain beneficiary payments and to depart from limitations on the types of health-care services that could be provided to beneficiaries could be used as inducements for beneficiaries to enroll in the alternative health-care plans contracted for by the Secretary.

In addition to the changes described, the Secretary of Defense was authorized to prescribe regulations to implement the various provisions, including certain other administrative changes to the system that do not directly affect health care for beneficiaries.

In 1994 the Department of Defense embarked on a new program, known as TRICARE, to improve the quality, cost, and accessibility of services for its beneficiaries. Because of the size and complexity of the military health services system (MHSS), TRICARE implementation was phased in over a period of several years. The principal mechanisms for the implementation of TRICARE were the designation of the commanders of selected Military Medical Treatment Facilities (MTFs) as lead agents for 12 TRICARE regions across the country, operational enhancements to the MHSS, and the procurement of managed-care support contracts for the provision of civilian health-care services within those regions. The first region (Washington and Oregon) went into operation in 1995, and the twelfth and last region (Northeastern United States) went into operation in 1998.

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[11] See, e.g., H.R. Rep. No. 99-1001 (Committee of Conference), at 489–90, accompanying S. 2638, 99th Cong., 2d sess. (1986). Also see H.R. Rep. No. 99-718 (Committee on Armed Services), at 238, accompanying H.R. 4428, 99th Cong., 2d sess. (1986), in which the House Committee on Armed Services expressed special concern about how the Department of Defense Project Imprint would affect the delivery of health-care services to military retirees and their dependents. *Cf*. H.R. Rep. No. 99-718 (Committee on Armed Services), at 234–43, accompanying H.R. 4428, 99th Cong., 2d sess. (1986), generally, for a discussion of the military health-care delivery system.

Many of the fundamental rules and standards of the CHAMPUS system, such as deductible amounts and eligibility standards, remain in the basic structure of TRICARE. A major feature of TRICARE is the establishment of a triple-option benefit. CHAMPUS-eligible beneficiaries are offered three options: they may elect to receive health care through (1) an HMO-type program called "TRICARE Prime", (2) the preferred-provider network on a case-by-case basis under "TRICARE Extra", or (3) non-network providers under "TRICARE Standard." (TRICARE Standard, the program that replaced the standard CHAMPUS, maintains the same deductible and inpatient charges as those outlined above for the CHAMPUS program.) Enrollees in TRICARE Prime obtain most of their care within the network and pay substantially reduced CHAMPUS cost shares when they receive care from civilian network providers. Enrollees in TRICARE Prime retain freedom to use non-network civilian providers, but they have to pay cost sharing considerably higher than TRICARE Standard if they do so. Beneficiaries who choose not to enroll in TRICARE Prime will preserve their freedom of choice of provider for the most part by remaining in TRICARE Standard. These beneficiaries face standard CHAMPUS cost-sharing requirements, except that their coinsurance percentage is lower when they opt to use the preferred-provider network under TRICARE Extra. All beneficiaries continue to be eligible to receive care in MTFs, but active-duty family members who enroll in TRICARE Prime have priority over all other beneficiaries.

TRICARE Prime incorporates the "Uniform HMO Benefit Option," which was mandated by Section 731 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §731, 107 Stat. 1547, 1696 (1993). It required the establishment of a Uniform HMO Benefit Option, which was required "to the maximum extent practicable" to be included "in all future managed health care initiatives undertaken by" the Department of Defense. This option is to provide "reduced out-of-pocket costs and a benefit structure that is as uniform as possible throughout the United States". The 1994 Authorization Act further requires a determination that, in the managed-care initiative that includes the Uniform HMO Benefit Option, Department of Defense costs are to be "no greater than the costs that would otherwise be incurred to provide health care to the covered beneficiaries who enroll in the option."

In addition to this provision of the 1994 Authorization Act, a similar requirement was established by Section 8025 of the Department of Defense Appropriations Act, 1994, Pub. L. No. 103-139, §8025, 107 Stat. 1418, 1443–1444 (1993). As part of an initiative "to implement a nationwide managed health care program for the MHSS," the Department of Defense was required to establish "a uniform, stabilized benefit structure characterized by a triple option health benefit feature." The Uniform HMO Benefit also implements this requirement of law. It offers reduced cost sharing to CHAMPUS-eligible beneficiaries who enroll in TRICARE Prime.

TRICARE/CHAMPUS supports both the active-duty and retired communities. For a more detailed description of the TRICARE/CHAMPUS system considered as a whole, the reasons for its adoption in the first instance, and how it is administered, see Appendix X of this volume, "CHAMPUS AND TRICARE."

Current status of medical care for members and their dependents: Military personnel are entitled to medical and dental care at military medical facilities or medical facilities of any of the uniformed services. [See 10 U.S.C. §1074(a).] The primary form of health care authorized for dependents or survivors of active-duty military personnel is TRICARE/CHAMPUS[12], although dependents or survivors may be treated at military medical facilities depending on "availability of space and facilities and the capabilities of the medical and dental staff." [See 10 U.S.C. §1076(b) (dependents or survivors of members).][13] For additional information about the TRICARE/CHAMPUS system, see the TRICARE Web site at http://www.tricare. osd.mil.

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[12] But see footnote 1 to Chapter III.D.1. hereof, "Retired Members Medical Care," above.

[13] The service regulations that establish priorities for medical care for service members and their dependents and survivors are as follows: for the Army, AR 40-3, chapter 4; for the Navy, NAVMED 6320.33; and for the Air Force, AFR 168-6, chapter 1.

Cost: For the cost of medical care for active-duty personnel and their dependents from 1978 to 1995, see table below IV-4, below.

Table IV-4. Dependents of Active-Duty Personnel as Consumers of Military Medical Care, 1978–95

	Military Facilities		CHAMPUS Costs	
Year	**Inpatient**[1]	**Outpatient**[2]	**Total Costs**[3]	**($000)**
1978	47.0%	58.2%	48.9%	$285.8
1979	45.4%	57.0%	49.0%	318.0
1980	43.1%	51.4%	47.9%	349.9
1981	41.5%	54.5%	48.3%	415.5
1982	42.1%	54.1%	49.6%	531.6
1983	42.0%	54.5%	49.6%	592.1
1984	43.5%	54.7%	50.6%	634.2
1985	44.6%	54.9%	50.7%	713.1
1986	45.3%	55.1%	53.1%	909.2
1987	45.1%	55.2%	54.8%	1,156.3
1988	45.7%	56.5%	55.2%	1,207.9
1989	45.4%	56.7%	56.3%	1,330.9
1990	45.1%	57.7%	55.5%	1,475.8
1991	39.0%	57.5%	55.1%	1,550.4
1992	38.3%	56.9%	52.4%	1,432.0
1993	37.7%	55.9%	48.9%	1,319.0
1994	38.0%	55.9%	46.2%	1,204.8
1995	36.9%	54.4%	44.6%	1,094.6

[1] Percentage of other than active-duty members' inpatient days.

[2] Percentage of other than active-duty members' outpatient visits.

[3] Percentage of other CHAMPUS benefit costs.

Note: Figures may not add to 100 percent because of rounding.

Chapter IV.C.1.
Government Contribution to Social Security

Legislative Authority: Sections 3101, 3111, and 3121 of the Internal Revenue Code of 1986, 26 U.S.C. §§3101, 3111, and 3121, respectively.

Purpose: To require employees and employers—in the present case, members of the uniformed services and the federal government, respectively—to jointly finance a Federal Old-Age, Survivors, Disability, and Health Insurance (OASDHI) program in order to provide pre- and post-retirement income and security to covered employees and their families.

Background: Section 3101 of the Internal Revenue Code of 1986,[1] 26 U.S.C. §3101, as amended, imposes certain taxes on "wages" received by "employees" in certain types of "employment." Matching taxes are imposed on the "employers" of covered employees by Section 3111 of the Code, 26 U.S.C. §3111. Since the short title of the chapter of the Internal Revenue Code that imposes such taxes is the "Federal Insurance Contributions Act," the taxes themselves are sometimes referred to by the acronym "FICA," although in common parlance they are more frequently referred to as "Social Security taxes." Employment of an individual in the uniformed services qualifies as "employment" for purposes of the Social Security Act of 1935, ch. 531 , Pub. L. No. 74-271, 49 Stat. 620 (1936), with the result that "wages" paid to members of the uniformed services are subject to Social Security taxes. [See, e.g., IRC §3121(m) and (n), 26 U.S.C. §3121(m) and (n).]

Section 3101 of the Internal Revenue Code effectively imposes two different types of Social Security, or FICA, taxes. Section 3101(a) of the Code, 26 U.S.C. §3101(a), imposes a tax on the "wages" of "employees" for the benefit of the "Old-Age, Survivors, and Disability Insurance" fund (OASDI), from which Social Security retirement benefits are paid; Section 3101(b) of the Code, 26 U.S.C. §3101(b), imposes a tax on the "wages" of "employees" for the benefit of the "Hospital Insurance" fund (HI), from which Social Security "Medicare" benefits are paid. The amount of the OASDI portion of Social Security taxes is equal to 6.2 percent of an individual's "wages," up to the "contribution and benefit base," which was $118,500 in 2016.[2] The amount of the HI portion of Social Security taxes is equal to 1.45 percent of an individual's total "wages." The Patient Protection and Affordable Care Act imposed an additional HI tax for those earning over $200,000 ($250,000 for married couples) that is equal to 0.9 percent of wages.[3] Under Section 3121(i)(2) of the Code, 26 U.S.C. §3121(i)(2), the "wages" paid to a member of the uniformed services that are subject to Social Security taxes are limited to the basic pay received by the member, in the case of a member on active duty, or to the "compensation" received by a member for inactive-duty training, in the case of a member entitled to compensation for inactive-duty training under 37 U.S.C. §206(a).[4]

The Social Security, or FICA, tax increased as additional coverage, such as Medicare, was added. The increases have occurred in both the tax rate and in the annual wage base ceiling on which the tax is

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[1] The Internal Revenue Code of 1954 was redesignated as the Internal Revenue Code of 1986 by Section 2(a) of the Tax Reform Act of 1986, Pub. L. No. 99-514, §2(a), 100 Stat. 2085, 2095 (1986). As redesignated, the Internal Revenue Code of 1986 is classified to Title 26, United States Code. The Internal Revenue Code of 1986, as amended, is hereinafter variously referred to as the "Internal Revenue Code" or, more simply, the "Code."

[2] The "contribution and benefit base" is referred to hereinafter as the "wage base." U.S. Social Security Administration, "Benefits Planner: Maximum Taxable Earnings (1937-2016)," https://www.ssa.gov/planners/maxtax.html.

[3] Patient Protection and Affordable Care Act, Pub. L. No. 111-148, Title IX, Subtitle A, Section 9015, 124 Stat. 119, 870 (2010) as modified by section 10906, 124 Stat. 1020.

[4] "Compensation" paid under 37 U.S.C. §206 to members of the reserve components of the armed forces performing inactive-duty training also—pursuant to amendments to the Internal Revenue Code made by the Omnibus Budget Reconciliation Act of 1987—constitute "wages" for FICA purposes. Section 3121(i)(2) of the Internal Revenue Code of 1986, 37 U.S.C. §3121(i)(2), as amended by the Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, §9001(b)(2), 101 Stat. 1330 (1987).

imposed. This chapter contains a schedule of annual wage-base ceilings, tax rates, and maximum contributions for the years 1937 through 2016. As previously indicated, only the basic pay of a member of the active-duty components of the uniformed services constitutes "wages" for FICA purposes. [See Section 3121(i)(2) of the Internal Revenue Code, 26 U.S.C. §3121(i)(2). Also see Section 3121(m) and (n) of the Internal Revenue Code, 26 U.S.C. §3121(m) and (n), for various definitions applicable to military service.] Highlights of the OASDHI program follow the schedule of FICA wage-base ceilings, tax rates, etc., referred to above.

The Social Security Act: The Social Security Act of 1935, ch. 531. Pub. L. No. 74-271, 49 Stat. 620 (1936), created a federal system of old-age benefits for retired workers who had been employed in industry or commerce. In 1939 Congress changed the concept of the system from an old-age security program to a family security program by providing benefits for a worker's dependents and survivors. The system has evolved into a set of old-age, retirement, and disability benefits for the principal; survivor benefits for the principal's widow or widower and dependent children; and health-insurance (Medicare) benefits for those over age 65 and those disabled before age 65.

Additionally, matching federal grants are provided to the states under the Social Security Act, ch. 531, *id*., for public-assistance programs such as old-age assistance, aid to families with dependent children, aid to the blind, and aid to the permanently and totally disabled. The act also authorizes federal-tax offsets to employers and grants to states to induce them to enact employment-insurance laws. The grants to the states are financed from general revenues and not from employee and employer contributions to the OASDHI program.

Beginning in 1946, Congress enacted a series of amendments to the Social Security Act, ch. 531, *id*., that extended some benefits to military personnel and their survivors. The theory underlying the extension of Social Security benefits to this class of persons was that service in the armed forces would not, by its very nature, be a life-time career for the vast majority in service at any one time but should instead be seen as interrupting, or taking the place of, a portion of a member's civilian career that would be resumed upon release from active military service. Accordingly, OASDHI benefits were extended to cover military service so that affected personnel would have full—rather than interrupted, or partial—coverage, thus leaving such personnel in the same position they would have otherwise been in had they not entered the armed forces.

The Servicemen's and Veterans' Survivor Benefits Act, ch. 837, Pub. L. No. 84-881, §401, 70 Stat. 857, 869–70 (1956), brought members of the uniformed services on active duty into the contributory Social Security system effective January 1, 1957.[5] The Social Security provision was but one part of the act, the primary purpose of which was to overhaul and integrate the benefit programs for survivors of deceased military personnel that, as described by congressional spokesmen, were then a "complete hodgepodge" and a "jumble of laws." The financial integrity of the Social Security system was also a factor in making military personnel full-fledged members, although such considerations were stated to be secondary. The "gratuitous" benefits that, starting in 1946, had been authorized for military personnel and their survivors were causing a drain on the Social Security trust fund. This drain was being reimbursed out of the general fund of the United States Treasury. It was thought that it would be more economical to the government to make contributions to the trust fund as the employer of military personnel than to reimburse the fund for "free" benefits to such personnel.

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[5] In bringing members of the uniformed services on active duty into the Social Security system, Section 401 of the Servicemen's and Veterans' Survivor Benefits Act, ch. 837, Pub. L. No. 84-881, §401, 70 Stat. 857, 869–70 (1956), provided, *inter alia*, " ... in the case of an individual performing service, as a member of a uniformed service ... the term "wages" shall ... include as such individual's remuneration for such service only his basic pay...."

This rule is perpetuated in the *Internal Revenue Code of 1986* at Section 3121(i)(2)(A), 26 U.S.C. §3121(i)(2)(A). See IRC §3121(i)(2)(A), 26 U.S.C. §3121(i)(2)(A).

As full participants in the Social Security system, military personnel are in general entitled to the same benefits and are subject to the same eligibility criteria and rules as other employees. As of October 1, 2001, TRICARE became a second-payer to Medicare for retirees over age 64.[6] Beneficiaries pay no enrollment fees, co-pays, or deductibles. Eligibility continues for medical care in military facilities on a space-available basis. One feature of OASDHI unique to military personnel grants a noncontributory wage credit of (i) $300 for each quarter between 1956 and 1978 in which such personnel received military "wages" and (ii) up to $1,200 per year ($100 of credit for each $300 of "wages" up to a maximum credit of $1,200 for years after 1977 through 2002). The purpose of this credit is to take into account elements of compensation such as quarters and subsistence not included in the "wages" with respect to which Social Security benefit payments are determined once a person achieves eligibility for benefits. The Social Security trust funds are reimbursed from federal general revenues for the additional cost of benefits resulting from the noncontributory wage credit.

A description of how the Social Security program works in practice is set out under the heading, "The OASDHI Program," following the data on wage base ceilings, tax rates, and contribution limits provided immediately below.

Schedule of Annual Wage Base Ceilings, Tax Rates, and Maximum Contributions (1937–2016)

	Annual	Employee and Employer Tax Rate (each)[3]			Maximum Employee and Employer Contribution (combined)
Calendar Year	Wage Base Ceiling	OASDI	HI	Total	
1937–49	$3,000	---	---	1.00%	$30.00
1950	3,000	---	---	1.50	45.00
1951–53[1]	3,600	---	---	1.50	54.00
1954	3,600	---	---	2.00	72.00
1955–56	4,200	---	---	2.00	84.00
1957–58[2]	4,200	---	---	2.25	94.50
1959	4,800	---	---	2.50	120.00
1960–61	4,800	---	---	3.00	144.00
1962	4,800	---	---	3.13	150.00
1963–65	4,800	---	---	3.63	174.00
1966	6,600	3.85%	0.35%	4.20	277.20
1967	6,600	3.90	0.50	4.40	290.40
1968	7,800	3.80	0.60	4.40	343.20
1969–70	7,800	4.20	0.60	4.80	374.40
1971	7,800	4.60	0.60	5.20	405.60
1972	9,000	4.60	0.60	5.20	468.00
1973	10,800	4.85	1.00	5.85	631.80

[6] For a discussion of this medical-care system, see Chapter IV.B.4, "Medical Care for Active-Duty Personnel and Their Dependents," and Appendix X, "CHAMPUS AND TRICARE."

	Annual	Employee and Employer Tax Rate (each)[3]			Maximum Employee and Employer Contribution (combined)
Calendar Year	**Wage Base Ceiling**	**OASDI**	**HI**	**Total**	
1974	13,200	4.95	0.90	5.85	772.20
1975	14,100	4.95	0.90	5.85	824.85
1976	15,300	4.95	0.90	5.85	895.05
1977	16,500	4.95	0.90	5.85	965.25
1978	17,700	5.05	1.00	6.05	1,070.85
1979	22,900	5.08	1.05	6.13	1,403.77
1980	25,900	5.08	1.05	6.13	1,587.67
1981	29,700	5.35	1.30	6.65	1,975.05
1982	32,400	5.40	1.30	6.70	2,170.80
1983	35,700	5.40	1.30	6.70	2,391.90
1984	37,800	5.70	1.30	7.00	2,646.00
1985	39,600	5.70	1.35	7.05	2,791.80
1986	42,000	5.70	1.45	7.15	3,003.00
1987	43,800	5.70	1.45	7.15	3,131.70
1988	45,000	6.06	1.45	7.51	3,379.50
1989	48,000	6.06	1.45	7.51	3,604.80
1990	51,300	6.20	1.45	7.65	3,924.45
1991	53,400	6.20	1.45	7.65	4,085.10
1992	55,500	6.20	1.45	7.65	4,245.75
1993	57,000	6.20	1.45	7.65	4,360.50
1994	60,600	6.20	1.45	7.65	Unlimited
1995	61,200	6.20	1.45	7.65	Unlimited
1996	62,700	6.20	1.45	7.65	Unlimited
1997	65,400	6.20	1.45	7.65	Unlimited
1998	68,400	6.20	1.45	7.65	Unlimited
1999	72,600	6.20	1.45	7.65	Unlimited
2000	76,200	6.20	1.45	7.65	Unlimited
2001	80,400	6.20	1.45	7.65	Unlimited
2002	84,900	6.20	1.45	7.65	Unlimited
2003	87,000	6.20	1.45	7.65	Unlimited
2004	87,900	6.20	1.45	7.65	Unlimited
2005	90,000	6.20	1.45	7.65	Unlimited
2006	94,200	6.20	1.45	7.65	Unlimited
2007	97,500	6.20	1.45	7.65	Unlimited
2008	102,000	6.20	1.45	7.65	Unlimited
2009	106,800	6.20	1.45	7.65	Unlimited
2010	106,800	6.20	1.45	7.65	Unlimited
2011	106,800	6.20	1.45	7.65	Unlimited
2012	110,100	6.20	1.45	7.65	Unlimited
2013	113,700	6.20	1.45	7.65	Unlimited
2014	117,000	6.20	1.45	7.65	Unlimited

	Annual	Employee and Employer Tax Rate (each)[3]			Maximum Employee and Employer Contribution (combined)
Calendar Year	Wage Base Ceiling	OASDI	HI	Total	
2015	118,500	6.20	1.45	7.65	Unlimited
2016[1]	118,500	6.20	1.45	7.65	Unlimited

[1] Estimate.

--- No Data Available.

[1] 1951–1956 military personnel were given a "free" credit of coverage at an annual earning level of $1,920.

[2] Between 1956 and 1978, military personnel earning less than the Wage Base Ceiling amount were given a "free" credit of up to $300 per quarter to the extent their basic pay was less than the ceiling; after 1977, they were given a credit of up to $1,200 a year ($100 for each $300 of covered wages).

[3] OASDI: Old-Age, Survivors, and Disability Insurance; HI: Hospital Insurance. The Hospital Insurance program, popularly referred to as Medicare, started in 1966; hence, there is no breakout between OASDI and HI for years before 1966.

Source: Social Security Administration, "Contribution and Benefit Base," https//www.ssa.gov/oact/cola/cbb.html.

Schedule of Annual Wage Base Ceilings, Tax Rates, and Maximum Contributions for Years after 1990

Calendar Year	Program	Tax Rate	Maximum Wages Taxable	Maximum Annual Contribution (each)
1991	OASDI	6.20%	$53,400	$3,310.80
	HI	1.45%	125,000	1,812.50
	OASDI + HI			5,123.30
1992	OASDI	6.20%	55,500	3,441.00
	HI	1.45%	130,200	1,887.90
	OASDI + HI			5,328.90
1993	OASDI	6.20%	57,600	3,571.20
	HI	1.45%	135,000	1,957.50
	OASDI + HI			5,528.70
1994	OASDI	6.20%	60,600	3,757.20
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
1995	OASDI	6.20%	61,200	3,794.40
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited

Calendar Year	Program	Tax Rate	Maximum Wages Taxable	Maximum Annual Contribution (each)
1996	OASDI	6.20%	62,700	3,887.40
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
1997	OASDI	6.20%	65,400	4,054.80
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
1998	OASDI	6.20%	68,400	4,240.80
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
1999	OASDI	6.20%	72,600	4,501.20
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2000	OASDI	6.20%	76,200	4,724.40
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2001	OASDI	6.20%	80,400	4,984.80
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2002	OASDI	6.20%	84,900	5,263.80
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2003	OASDI	6.20%	87,000	5,394.00
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2004	OASDI	6.20%	87,900	5,449.80
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2005	OASDI	6.20%	90,000	5,580.00
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2006	OASDI	6.20%	94,200	5,840.40
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2007	OASDI	6.20%	97,500	6,045.00
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2008	OASDI	6.20%	102,000	6,324.00
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2009	OASDI	6.20%	106,800	6,621,60
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2010	OASDI	6.20%	106,800	6,621,60
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited

Calendar Year	Program	Tax Rate	Maximum Wages Taxable	Maximum Annual Contribution (each)
2011	OASDI	6.20%	106,800	6,621,60
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2012	OASDI	6.20%	110,100	6,826,20
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2013	OASDI	6.20%	113,700	7,049,40
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2014	OASDI	6.20%	117,000	7,254,00
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2015	OASDI	6.20%	118,500	7,347,00
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited
2016[1]	OASDI	6.20%	118,500	7,347,00
	HI	1.45%	Unlimited	Unlimited
	OASDI + HI			Unlimited

[1] Estimate.

Source: Social Security Administration, "Contribution and Benefit Base," https//www.ssa.gov/oact/cola/cbb.html.

The OASDHI Program

Insured Status

Eligibility for OASDHI benefits is established by the length of an individual's covered employment, measured in "quarters of coverage." A person who received covered wages of $50 or more in any calendar quarter (January–March, April–June, etc.) after 1936 but before 1978 is credited with a quarter of coverage; after 1977, the amount of wages required to receive a quarter of coverage has been systematically increased every year pursuant to a formula in the Social Security Act of 1935, ch. 531, Pub. L. No. 74-271, 49 Stat. 620 (1936), as amended. In 1978 a person needed $250 of wages to secure a quarter of coverage; following regular increases in the interim years, in 2016 the amount necessary to secure a quarter of coverage was $1,260.[7]

A member of the armed forces on active duty for more than 90 days between September 16, 1940, and December 31, 1956, earned a quarter of coverage for each calendar quarter during any part of which such active duty was performed, even though active-duty service in the armed forces was not at that time deemed to be "covered employment." As a general rule, these "free" military credits cannot be used by a

[7] U.S. Social Security Administration, "Benefits Planner: Social Security Credits," https://www.ssa.gov/planners/credits.html#&a0=0.

deemed to be "covered employment." As a general rule, these "free" military credits cannot be used by a member of an armed force retired by reason of length of service before January 2, 1957. A member retired for length of service after January 1, 1957, can use only those military credits earned from January 1, 1951, through December 31, 1956.

Persons born in 1929 or later attain a "fully insured" status by acquiring 40 quarters of coverage. Those born in 1913 through 1928 attain a fully insured status by acquiring quarters of coverage equal to the number of years from 1951 to the year they reach age 62. Thus, a person born in 1920, for example, requires 31 (1982–1951) quarters of coverage. Men born in 1910 through 1912 need 24 quarters of coverage to have a fully insured status; those born before 1910 became fully insured when they acquired quarters of coverage equal to the number of years from 1951 to the year they reached age 65. Women born before 1913 became fully insured when they acquired quarters of coverage equal to the number of years from 1951 to the year they reached age 62. Once a person attains a fully insured status, that status exists for life, and no further employment is needed to maintain it. A person may be eligible for disability benefits even if not fully insured, just as the survivors of a decedent who had not attained a fully insured status may be eligible for survivor benefits.

Benefits in General

Monthly Social Security benefits are now tied to the cost of living as measured by the Consumer Price Index and are increased automatically each year as the cost of living rises. Every year living costs are compared to those of the year before, and if living costs have increased over the previous year, benefits are increased by the same percentage. Increases in benefits become effective in January following the month cost-of-living determinations are made.

The contribution and benefit base (also referred to as the annual wage-base ceiling)—the maximum amount of annual earnings on which OASDI taxes are paid and that is creditable for benefits—is also affected by cost-of-living increases. Every time there is an increase in Social Security benefits, the commissioner of Social Security is required to determine by November 1 of that same year a new wage-base ceiling for the following year. The wage-base ceiling for 2016 was $118,500.

Retirement (Old-Age) Benefits

From 1990 until 1999, persons retiring at the established "normal retirement age" of 65 received full, unreduced Social Security benefits.[8] Starting in the year 2000, however, the "normal retirement age"—the age at which full, unreduced benefits are payable—increased in gradual steps until it reached 67 years of age for individuals born in 1960 or later (see table below). This increase in the "normal retirement age" affects only persons born in 1938 or later. Beginning in 2000, reduced benefits still were payable at age 62, but the reduction in benefits was even larger, as a percentage of the total benefits payable, than had been the case previously.

According to what is referred to as the "retirement earnings test," persons under the "normal retirement age" (NRA) have benefits reduced if their "retirement earnings" exceed certain stated amounts. The purpose of the earnings test is to assure that benefits are paid to a worker only when he or she has substantially retired and to his or her dependents and survivors only when they do not have substantial earnings from work.

Beginning in 2000, the Social Security Administration used two annually adjusted earnings figures, called exemption amounts, to determine benefit reductions for persons who are below the NRA and receiving non-pension earnings. In this system, for every $2 of annual earnings in excess of the lower exemption amount (set at $15,720 in 2016), Social Security benefits are reduced by $1 for individuals below

[8] Persons seeking Social Security retirement benefits at age 62 currently receive 80 percent of the amount of the benefit they would receive if they did not seek retirement benefits until age 65.

2016), bring about a benefits reduction calculated at a different rate, $1 for every $3 earned above that amount.[9] Thus, in 2016 an individual who was born in 1952 (thus falling below the NRA) and earned $41,880 would have a benefit reduction for that year of $13,080 ($1 for each $2 in the $26,160 by which the person's earnings exceed the lower exemption amount, $15,720). If the same individual earned $43,080 instead of $41,880, the benefits would be reduced by an additional $400, or $1 for every $3 in the $1,200 by which earnings exceeded the higher exemption amount. For this purpose, "earnings" means income such as wages, commissions, or bonuses produced as a result of work or effort. Dividends or interest, retirement pay, insurance-policy proceeds, rental income, and other similar sources of income are not deemed to be "earnings" for the purposes of the "retirement earnings test" and thus do not reduce Social Security benefits.

The following table shows "normal retirement age" by year of birth:

Year of Birth	Normal Retirement Age
1937 or earlier	65 Years
1938	65 Years 2 Months
1939	65 Years 4 Months
1940	65 Years 6 Months
1941	65 Years 8 Months
1942	65 Years 10 Months
1943 through 1954	66 Years
1955	66 Years 2 Months
1956	66 Years 4 Months
1957	66 Years 6 Months
1958	66 Years 8 Months
1959	66 Years 10 Months
1960 or later	67 Years

A person who does not apply for Social Security benefits until sometime after reaching the NRA receives so-called "delayed retirement credits." These credits, which increase the amount of the retirement benefit the person will receive when he or she retires, apply until the month the individual reaches age 70. At that age, everyone is eligible to receive benefits without regard to the "retirement earnings test" referred to above, and no one should have any incentive to further delay receipt of Social Security retirement benefits. The following table shows the "delayed retirement credits" an individual will receive for each month past age 65 that the individual delays receiving retirement benefits:

[9] U.S. Social Security Administration, "Exempt Amounts Under the Earnings Test," https://www.ssa.gov/OACT/COLA/rtea.html.

Year in Which Individual Attains Age 65	Monthly Percentage Credit	Yearly Percentage Credit
Before 1982	1/12 of 1%	1%
1982–1989	1/4 of 1%	3%
1990–1991	7/24 of 1%	3.5%
1992–1993	1/3 of 1%	4%
1994–1995	3/8 of 1%	4.5%
1996–1997	5/12 of 1%	5%
1998–1999	11/24 of 1%	5.5%
2000–2001	1/2 of 1%	6%
2002–2003	13/24 of 1%	6.5%
2004–2005	7/12 of 1%	7%
2006–2007	5/8 of 1%	7.5%
2008 or later	2/3 of 1%	8%

Thus, for example a person reaching age 65 in the year 2000 who delays applying for Social Security retirement benefits until the month in which he or she reaches age 68 would be eligible for an increase in his or her monthly retirement benefit of 3 times 6 percent, or 18 percent, over what that benefit would have been if the person had been 65 instead of 68 when he or she first applied for retirement benefits.

Anyone who is eligible and has applied for Social Security retirement benefits is entitled to a monthly payment that represents a portion of average Social Security earnings over a number of years. For a person born before 1930, average earnings are usually computed from 1951 to the year the person reaches age 62. For a person born in 1930 or later, the average will be figured from the year the person became 22 to the year he or she became 62. Five years of zero or low earnings during the period may be disregarded in computing the average. Thus, for example, the retirement benefit of a person reaching age 62 in 1982 would be determined by averaging that person's earnings over 26 ((1982–1951)–5) years. Persons in active military service during the period from 1951 through 1956 are deemed to have Social Security earnings of $1,920 a year ($160 a month) for this purpose. Years of high earnings after reaching 62 can be substituted for earlier years of low earnings, but the number of years used in the computation will not change.[10]

After average monthly Social Security earnings have been calculated, the retirement benefit payable at the "normal retirement age"—the primary insurance amount—is determined from a benefit formula prescribed by law. This formula is revised by the commissioner of Social Security whenever a cost-of-living increase in Social Security benefits occurs or when there is a change in the national average wage index for the United States. If a person elects to receive a retirement benefit between age 62 and "normal retirement age," the primary insurance amount is reduced by a certain percentage for each month the person is under "normal retirement age" in order to compensate—actuarially—for the longer expected benefits-receipt period.[11]

[10] For this reason, in addition to the possibility of receiving higher Social Security retirement benefits because of the "delayed retirement credits" referred to above, an individual may also receive higher Social Security retirement benefits by delaying retirement past "normal retirement age," thereby receiving additional Social Security earnings, which may increase the individual's average annual Social Security earnings on which Social Security retirement benefits are determined.

[11] A person electing retirement benefits at age 62 will receive only 80 percent of the benefits a person retiring at the "normal retirement age" would receive. Persons retiring after age 62 but before age 65 receive retirement benefits greater than the 80 percent applicable to persons retiring at age 62 but less than the full benefit applicable to persons retiring at the "normal retirement age."

The spouse of a person receiving a retirement benefit is eligible for a "wife's or husband's benefit" equal to one-half the covered employee's benefit if the spouse is "caring for" the insured's dependent child who is eligible for child's benefits on the employee's earning record. For the purpose of the wife's or husband's benefit, the term "dependent child" includes children under 16 as well as those disabled. A child under 18, or a child 18 to 19 if a full-time student in elementary or secondary school, or a child disabled before age 22, of a person receiving an old-age benefit, is eligible, while unmarried, for a separate child's benefit equal to one-half the beneficiary's benefit if the beneficiary is alive or to three-quarters of the beneficiary's benefit if the beneficiary is dead.

Even though a retiree may be eligible for a retirement benefit and the retiree's spouse and children may additionally all be otherwise eligible for a percentage of such benefit, the total amount that may be paid on the beneficiary's Social Security account is limited by a ceiling (called the maximum family benefit). This ceiling varies with the amount of the retirement benefits.

Where dependent children are not involved, the spouse of a person receiving an old-age benefit is entitled at the spouse's "normal retirement age" to a "wife's or husband's benefit" equal to one-half the primary beneficiary's benefit. The spouse may elect to receive this benefit as early as age 62, in which case the benefit is reduced by an actuarially determined percentage for each month the spouse is under "normal retirement age."[12] A spouse who is eligible for a Social Security benefit on his or her own earnings and who is also eligible for a wife's or husband's benefit draws her or his own benefit plus the excess, if any, of the wife's or husband's benefit over his or her own. In effect, the spouse receives the larger of the two. Benefits are payable to a divorced spouse who was married to an entitled service member for at least 10 years. Divorced spouse benefits are payable even if the service member is not yet receiving benefits. In addition to the requirement that a marriage last at least 10 years for a divorced spouse to be entitled to benefits on the service member's record, the service member must be age 62 or older, fully insured, and divorced for at least two continuous years.

Survivor Benefits

The surviving spouse, and the divorced surviving spouse, of a person with a fully insured or currently insured status is eligible for a "mother's" or "father's" benefit equal to three-fourths of the insured's primary-insurance amount while the survivor is "caring for" the deceased's entitled children, provided that, in the case of a divorced surviving spouse, any children on whose behalf a benefit is payable must be the divorced surviving spouse's natural or legally adopted children. For the purpose of this benefit, a dependent child includes one who is under 16 or one disabled before age 22, but does not include a student age 16 through 21. A child under 18, or a child 18 to 19 if a full-time student in elementary or secondary school, or a child disabled before age 22, of a person who was fully insured or currently insured at the time of death, is eligible, while unmarried, for a child's benefit equal to three-fourths of the individual's primary-insurance amount. However, the total payments that can be made to a surviving spouse and children are limited by the maximum family benefit ceiling.

Where dependent children are not involved, the surviving spouse of a person with a fully insured status is eligible at "normal retirement age" for a widow's or widower's benefit equal to 100 percent of the insured's primary-insurance amount, unless the insured was receiving a retirement benefit at the time of death. If the insured was receiving a reduced retirement benefit at the time of death, the widow's or widower's basic benefit cannot be more than the insured would be getting if still alive, except that the benefit amount cannot be reduced to less than 82.5 percent of the insured's primary-insurance amount. The surviving spouse may elect to receive the widow's or widower's benefit between age 60 and "normal retirement age," in which case the surviving spouse's basic benefit is reduced by an actuarially determined

[12] The "normal retirement age" for a spouse born before 1938 is 65; for spouses born after 1937, the "normal retirement age" is the same as that set out for retirees under the "Retirement Benefits" heading, above.

percentage for each month the spouse is under "normal retirement age." A disabled widow or widower or a disabled surviving divorced spouse may be eligible for reduced benefits at age 50.

When an insured person with a fully insured or currently insured status dies, that person's widow or widower is also entitled to a lump-sum payment of $255 if the two were "living together," to use as the surviving spouse sees fit. If there is no "living with" surviving spouse, the lump sum is paid to a surviving spouse who was eligible for or entitled to benefits on the service member's record for the month of death. If there is no such surviving spouse, the lump-sum benefit is payable to the surviving child or children of the service member who was eligible for or entitled to a benefit on the service member's record for the month of death.

Disability Benefits

To qualify for disability benefits, a person must have a fully insured status and, if 31 or older at the onset of the disability, have acquired at least 20 quarters of coverage in the 40 calendar quarters ending with the quarter in which disabled. A person disabled before age 31 must have been covered for one-half the quarters after age 21 up to the date of disability.

A qualified person who is disabled within the meaning of the Social Security Act of 1935, ch. 531, *id*., as amended, is entitled, after being disabled for five full consecutive months, to a disability benefit based on average Social Security earnings, with no actuarial reduction in the benefit regardless of age. For the purposes of the Social Security Act, the term "disability" is defined as the inability to engage in any substantial gainful activity because of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least 12 months. For persons born before 1930, average earnings are usually computed from 1951 to the year of disability. For a person born in 1930 or later, the average earnings are computed from the year the person became 22. Different agencies have different standards, and a person might be rated 100-percent disabled by a military service or the Department of Veterans Affairs and not qualify for a Social Security disability benefit. Conversely, a person might qualify for a Social Security disability benefit even though not rated as disabled or rated as less than 100-percent disabled by another agency. A disability benefit converts to an old-age benefit when the beneficiary reaches age 65.

Children's benefits and wife's and husband's benefits (including benefits payable to divorced former spouses) are payable on the Social Security account of a person receiving a disability benefit in the same percentages and under the same eligibility criteria as apply in the case of a person receiving an old-age benefit.

Health Insurance for the Aged and Disabled (Medicare)

In 1965 Congress amended the Social Security Act of 1935, ch. 531, *id*., as amended, by establishing two related contributory health-insurance plans for virtually all persons aged 65 and over: a basic compulsory program of hospital insurance and a voluntary program of supplementary medical insurance. Effective July 1, 1973, such Medicare coverage was extended to certain severely disabled persons under 65, including disabled workers, disabled widows and widowers, and childhood-disability beneficiaries.

The employee and employer hospital-insurance taxes paid while an individual is working are used to finance the basic compulsory plan that provides insurance against the costs of inpatient hospital services and related post-hospital extended care for individuals who are eligible for Social Security benefits when they reach age 65 (whether retired or not), and for disabled individuals (but not their dependents), regardless of age, who have been entitled to Social security benefits for at least two consecutive years.

As of October 1, 2001, retired members of the uniformed services, their dependents, and dependents of deceased members no longer lose their inpatient and outpatient coverage under the TRICARE/CHAMPUS system when they become eligible for Medicare's basic hospital-insurance program

(even if they decline its supplementary medical-insurance plan). TRICARE/CHAMPUS is a "last pay" health-benefits program for these classes of persons, and they cannot choose between it and Medicare once they become eligible for the latter. However, such persons continue to be eligible, under DoD policy, for space-available health care in uniformed services facilities after achieving Medicare eligibility.[13]

Under the hospital-insurance plan, after the patient pays a deductible, Medicare pays the remaining costs of hospital services, such as semiprivate accommodations, operating room, and laboratory tests and X-rays, for the first 60 days of hospitalization during each benefit period. A benefit period begins when the individual is admitted to a hospital and ends when the individual has not received inpatient services at a hospital or skilled nursing facility for 60 consecutive days. For each day of hospitalization from the sixty-first through the ninetieth, the patient pays a set "coinsurance" amount for hospital services, and Medicare pays the balance. After 90 days of hospitalization in a benefit period, each beneficiary has a "lifetime reserve" of 60 days of hospital care for optional use at a still higher "coinsurance" cost.

Post-hospital extended-care services in an institution or convalescent section of a hospital that qualifies as a skilled nursing facility are also authorized under the hospital-insurance plan, after three or more days of hospitalization. This plan provides for up to 100 days of extended care in each benefit period. There is no cost to the patient for services during the first 20 days, but the patient pays a certain "coinsurance" amount per day for each of the remaining 80 days used. Additionally, the plan authorizes certain post-hospital home health services following a stay of three or more days in a hospital or skilled nursing facility and before the beginning of a new benefit period.

Persons eligible for the basic compulsory hospital insurance are automatically enrolled in the supplementary medical-insurance program but have the option of declining such coverage. All persons covered by the supplementary medical-insurance program pay a monthly premium for such coverage. The premium is deducted from the benefit payments of persons in receipt of cash payments. After the participant has paid an annual deductible, supplementary medical insurance covers 80 percent of the reasonable charges or costs for items such as physicians or surgeons or outpatient services, outpatient hospital services, and prosthetic lenses and devices other than dental.

Cost: For the cost of the government contribution to Social Security from 1972 to 2016, see table IV-5, below.

Table IV-5. Social Security Contributions, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	2,499,649	$672,849	356,653	$153,709	2,142,946	$519,140
1973	2,312,816	756,702	329,134	177,356	1,983,682	629,091
1974	2,193,758	823,564	309,464	194,473	1,884,294	629,091
1975	2,136,950	865,934	296,800	216,082	1,840,150	649,852
1976	2,105,520	868,286	286,753	215,030	1,818,767	653,256
1977	---	930,667	---	234,686	---	695,981
1978	---	1,003,834	---	253,345	---	750,489
1979	---	1,078,210	---	279,003	---	799,207
1980	2,046,353	1,408,503	280,722	379,677	1,765,631	1,028,826
1981	2,050,876	1,407,117	280,722	379,677	1,770,154	1,027,440
1982	2,087,700	1,692,848	288,268	462,143	1,799,432	1,230,705
1983	2,103,823	1,791,659	294,324	490,808	1,809,499	1,300,851
1984	2,120,233	1,942,493	300,676	542,252	1,819,557	1,400,241

[13] See Chapter III.D.1. hereof, "Retired Members Medical Care," above.

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1985	2,133,251	2,070,476	305,301	579,686	1,827,950	1,490,790
1986	2,142,787	2,207,305	310,008	622,918	1,832,779	1,584,387
1987	2,154,330	2,276,031	310,620	658,387	1,843,710	1,617,644
1988	2,128,919	2,805,189	306,934	795,271	1,821,985	2,009,918
1989	2,110,591	2,896,621	303,617	825,373	1,806,974	2,071,248
1990	2,073,077	3,217,355	301,020	911,434	1,772,057	2,305,921
1991	2,128,798	2,840,461	310,734	809,822	1,818,064	2,030,639
1992	1,902,761	2,683,621	285,863	788,550	1,616,898	1,895,071
1993	1,738,951	2,572,445	264,710	756,688	1,474,241	1,815,757
1994	1,646,871	2,489,293	252,134	736,792	1,394,737	1,752,501
1995	1,552,393	2,416,862	241,805	725,521	1,310,588	1,691,341
1996	1,478,229	2,749,689	236,610	845,193	1,241,619	1,904,496
1997	1,443,099	2,734,818	231,633	838,687	1,211,466	1,896,131
1998	1,410,687	2,755,246	227,216	849,801	1,183,471	1,905,445
1999	1,375,344	2,731,415	222,341	853,055	1,153,003	1,878,360
2000	1,368,723	2,496,526	219,373	779,891	1,149,350	1,716,635
2001	1,374,997	2,325,998	218,038	810,554	1,156,959	1,515,444
2002	1,451,532	2,967,107	231,689	913,205	1,219,843	2,053,902
2003	1,569,889	3,465,074	251,309	1,048,402	1,318,580	2,416,672
2004	1,575,694	3,609,416	251,991	1,077,008	1,323,703	2,532,408
2005	1,131,208	3,058,153	250,297	1,101,721	880,911	1,956,432
2006	1,459,420	3,668,324	245,590	1,133,000	1,213,830	2,535,324
2007	1,471,665	3,686,288	243,120	1,153,639	1,228,545	2,532,649
2008	1,482,084	3,836,779	242,489	1,195,406	1,239,595	2,641,373
2009	1,528,330	4,070,873	249,626	1,255,262	1,278,704	2,815,611
2010	1,544,512	4,257,559	255,681	1,328,316	1,288,831	2,929,243
2011	1,520,862	4,300,952	257,100	1,366,877	1,263,762	2,934,075
2012	1,484,350	4,273,769	255,663	1,374,554	1,228,687	2,899,215
2013	1,438,440	4,222,713	252,341	1,377,411	1,186,099	2,845,302
2014	1,398,836	4,168,053	248,551	1,372,933	1,150,285	2,795,120
2015	1,344,120	4,061,842	241,347	1,344,028	1,102,773	2,717,814
2016[1]	1,303,491	3,981,612	232,857	1,311,713	1,070,634	2,669,899

--- No data available

[1] Estimate

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy*.

Chapter IV.C.2.
Survivor Benefit Plan (SBP)

Legislative Authority: 10 U.S.C. §§1447–1455

Purpose: To establish a program to ensure that the surviving dependents of military personnel who die in retirement or after becoming eligible for retirement will continue to have a reasonable level of income.

Background: The survivors of a retired member of the armed forces who dies in retirement or after becoming eligible for retirement may or may not, depending on circumstances, be entitled to cash payments from one or more government benefit programs. Government benefits could, for example, include Social Security payments to a surviving spouse—if the spouse had children in his or her care or was at least 60 years of age. They could include VA dependency and indemnity compensation—if the member's death resulted from a disease or injury traceable to active service. Or they could include a VA non-service-connected death pension—if the survivor's or survivors' income is less than specified levels. But the Survivor Benefit Plan is the only means by which a retired member can ensure that his or her immediate family will be provided with continued government income under any and all circumstances at a level dictated by the member, within established bounds, after the member's death.

The Uniformed Services Contingency Option Act of 1953, ch. 393, Pub. L. No. 83-239, §3, 67 Stat. 501, 502 (1953), was the first law to permit military members to receive reduced retired pay during their lifetime in return for ensuring that their widows and eligible children would receive an annuity after their death. Under this act, retired members were in effect allowed to pass on part of their retired pay to future survivors. The act provided, however, that the mechanism for so doing had to be constructed on an actuarially self-supporting basis. Hence, a member's contribution costs, i.e., the amount of the reduction in the member's retired or retainer pay, were determined on the basis of the member's age and the age of the member's eligible dependents at the time of retirement, and by whether the member was retired for disability or nondisability. Under the original Contingency Option Plan, members could elect, before the completion of their eighteenth year of service, to leave their survivors an annuity of either one-half, one-fourth, or one-eighth of their initial retired pay, where the amount of such "retired pay" in the case of any particular individual was the amount of such pay as reduced by the amount of the contribution.

The Contingency Option Plan did not prove attractive to most of the members eligible for it because it was quite expensive in terms of the reduction in current retired pay required to effect the election. For example, the cost per dollar of coverage was 22.8 cents for a member who retired for other than disability at age 45 with a wife five years younger. In addition, contributions were subject to taxation, so that a participating retired member had to pay taxes on income never in fact received. The requirement of an election by the end of the eighteenth year of service gave a pig-in-a-poke quality to what should have been an informed decision. A member had to commit at that point to buying an annuity based on a highly unknown quantity—namely, the amount of retired-pay entitlement some two to 12 years hence. And the future cost of the commitment was even more uncertain, because both the cost per dollar and the dollar amount of the annuity were subject to change in the interval between election and retirement. Furthermore, since the survivor annuity was based on a member's initial retired pay and remained frozen at that level, inflation in the general cost of living could cause a decrease in the real purchasing power of the annuity. In practice, unchecked inflation rapidly eroded the real purchasing power of the annuity, and for this reason also, the plan never became truly successful. Subsequent legislation chipped away at some of these shortcomings, but neither the Contingency Option Plan, nor the Retired Serviceman's Family Protection Plan, as it was later renamed, achieved a participation rate of more than 15 percent at any time during their 19 years of existence.

The Act of October 4, 1961, Pub. L. No. 87-381, §2, 75 Stat. 810 (1961), which changed the name of the Contingency Option Plan to the "Retired Serviceman's Family Protection Plan" (RSFPP), was designed to make the election procedures of the program more flexible. Originally, members could not

enter the Contingency Option Plan unless they so elected before the start of their eighteenth year of service. An election made before the eighteenth year could thereafter be changed or revoked, but the change or revocation was not effective unless the member remained on active duty for at least five years after making it. The Act of October 4, 1961, Pub. L. No. 87-381, *id*., permitted a member to elect to participate in RSFPP after the start of the member's eighteenth year of service, but the election was effective only if the member remained on active duty for at least three years after election. It also reduced from five to three years the period of subsequent active duty required to make a post-18-year change or revocation effective. The act further authorized the Secretaries of the military departments to permit a retired member to withdraw from RSFPP because of "extreme financial hardship." Though these changes brought more flexibility to the plan, they did not alter its self-supporting character, and the liberalization of the procedures had the effect of increasing the cost of the plan, and hence the cost to participating members. Thus, for example, a member who retired for other than disability at age 45, with a wife five years younger, paid 25.3 cents per dollar of coverage, as compared with the earlier 22.8 cents per dollar.

The Act of March 8, 1966, Pub. L. No. 89-365, §1(1), 80 Stat. 32 (1966), made the amount by which retired pay was reduced because of RSFPP participation exempt from income taxation. Under this act, RSFPP was accorded the same income-tax treatment as the federal Civil Service retirement program and other so-called "qualified pension plans." Under the Internal Revenue Code, one of the tests for favorable tax treatment for members participating in such a plan was whether the plan was funded. Since RSFPP was not "funded" within the meaning of the Internal Revenue Code, special legislation was needed to obtain the desired tax treatment. The favorable tax treatment given RSFPP under the Act of March 8, 1966, Pub. L. No. 89-365, *id*., was extended to the Survivor Benefit Plan when that plan subsequently replaced RSFPP.

The Act of August 13, 1968, Pub. L. No. 90-485, 82 Stat. 751 (1968), further liberalized various provisions of RSFPP in an attempt to obtain greater participation. It permitted elections to become effective immediately if made before the start of the nineteenth rather than the eighteenth year of service. It reduced from three to two years the period of subsequent active duty required to make a post-nineteenth-year election, change, or revocation effective. It allowed members to change or revoke their election between their nineteenth year of service and the date of retirement, without regard to the two-years-of-subsequent-active-duty rule, if such a change or revocation resulted from "significantly changed family circumstances." It enabled retired members to withdraw from RSFPP or to reduce the amount of their respective annuities on their own applications, effective six months after the date of application. Previously, withdrawals had been authorized only for "extreme financial hardship," and reductions in the amount of an annuity had not been allowed. The act changed the annuity base from a member's reduced retired pay to full retired pay. Finally, instead of an election being limited to an annuity of either one-half, one-quarter, or one-eighth of a member's retired pay, the act authorized the election of an annuity in any amount specified by the member, provided the amount was not more than 50 percent nor less than 12.5 percent of the member's retired pay. As was the case with the Act of October 4, 1961, Pub. L. No. 87-381, *id*., however, this liberalization further increased the costs to participating members. The cost to a member who retired for other than disability at age 45, to use the same example as above, with a wife five years younger soared to 42.9 cents per dollar of coverage.

The Uniformed Services Survivors' Benefits Amendments of 1978, Pub. L. No. 95-397, 92 Stat. 843 (1978), made several changes to RSFPP designed to improve the benefits available to persons already receiving annuities thereunder. First, and possibly most important, the act, *id*., §101(a)(3), 92 Stat. 843, provided that RSFPP annuities payable to survivors of members who died before March 20, 1974, would thereafter be subject to adjustment for increases in the cost of living. Such adjustments would take effect at the same time, and in the same percentage amount, as adjustments to retired and retainer pay under 10

U.S.C. §1401a.[1] [2] Second, the act, *id*., §101(a)(1) and (2), 92 Stat. 843, permitted RSFPP annuitants who remarried after age 60 to continue to receive RSFPP payments.[3]

A further perfecting change was made to RSFPP by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §642(a)(1)(B), 98 Stat. 2492, 2545–2546 (1984). At the behest of the Senate Armed Services Committee, Congress amended RSFPP to permit the Secretaries of the various military departments to determine, under certain circumstances, that a missing person may be presumed dead, with the result that the person's RSFPP beneficiaries therefore became entitled to RSFPP payments. Under the amendment effected by the 1985 Authorization Act, a service Secretary may determine that a participant who is missing may be presumed dead for the purposes of RSFPP entitlements if the surrounding circumstances would reasonably indicate the person is in fact dead, provided the person has been missing for at least 30 days. As indicated by the Senate Armed Services Committee, the amendment was intended to cure a "deficiency" in the program—also in the Survivor Benefit Plan (see below)—under which a retired person's survivors could neither get the missing person's retired or retainer pay or RSFPP payments.[4] [5]

The Act of September 21, 1972, Pub. L. No. 92-425, §3, 86 Stat. 706, 711–12 (1972), terminated RSFPP for members retired on or after that date. In its place, the act created the Survivor Benefit Plan (SBP), enacted as new Subchapter II of Chapter 73, Title 10, United States Code, *id*., §1(3), 86 Stat. 706–11. SBP was not intended to be a self-supporting program: its costs were to be shared by the government and retired members. For this reason, it was much less expensive to the member in most cases than RSFPP had been.

The purpose of changing the survivor benefit program from a self-supporting to a cost-sharing plan was described by a congressional subcommittee in these terms:

> The lack of basic survivor protection, which is a standard feature of most employee fringe benefit programs, public and private, and which is of particular importance to the military man because of his long period of retirement, is a glaring weakness in the singularly outstanding benefits program of the armed forces. The lack of a survivor benefits program based solely on the man's retired pay at a cost comparable to other systems, such as the civil service system, calls into question the retiree's inherent legal interest in his retired pay. The subcommittee believes the concept of retired pay as an earned right in which the retiree has a legal interest should be beyond challenge.
>
> The subcommittee believes the Government, in recognition of these rights, has a moral obligation to join in providing income protection for his survivors.
>
> . . .
>
> RSFPP has proved a failure insofar as it was designed to provide general survivor protection to the retired military population. The law has been amended seven times over

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[1] Under the provision in question, the RSFPP annuities of survivors of members who had died on or before March 20, 1974, were adjusted on October 1, 1978, by the percentage by which retired and retainer pay had been increased since September 21, 1972.

[2] RSFPP cost-of-living adjustments were authorized because, since RSFPP annuities had not theretofore been indexed, "inflation ha[d] seriously eroded the purchasing power of the fixed amount paid to RSFPP annuitants." S. Rep. No. 95-1138 (Committee on Armed Services), at 2, accompanying H.R. 3702, 95th Cong., 2d sess. (1978).

[3] As explained in the relevant congressional reports, the reason for this change in RSFPP was to make it more compatible with the treatment accorded annuitants under the newer survivor benefit plan, which allowed SBP annuitants who remarried after age 60 to continue to receive their SBP annuities. See, e.g., S. Rep. No. 95-1138 (Committee on Armed Services), at 3, accompanying H.R. 3702, 95th Cong., 2d sess. (1978).

[4] See S. Rep. No. 98-500 (Committee on Armed Services), at 219–20, accompanying S. 2723, 98th Cong., 2d sess. (1984); *cf*., H.R. Rep. No. 98-1080 (Committee of Conference), at 300–301, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[5] The same amendment was made to the survivor benefit plan.

> the past 17 years in an attempt to liberalize its provisions and make it more attractive to military personnel. The efforts have not been successful because of fundamental shortcomings in the plan, and only 15 percent of eligible military retirees have participated since 1953. This means that the survivors of 85 percent of deceased eligible retirees have no claim to any part of the member's military retired pay.
>
> ... Most retirees find it too expensive to participate, and this is particularly true of the lower paid retiree who needs the protection the most. For example, only 10 percent of the enlisted retirees participate, compared to about 20 percent of officer retirees.
>
> . . .
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> The subcommittee study shows that many present widows of career military retirees are living in conditions of great economic deprivation, and this is true not just of widows of lower ranked personnel but of the widows of senior officers and senior enlisted men of long and outstanding service.[6]

Under SBP, each member entitled to retired or retainer pay—whether on account of active-duty or non-regular service—with eligible dependents is entitled to participate in the program. A member who becomes entitled to retired or retainer pay on account of active-duty service is automatically enrolled in the program at the maximum authorized level of coverage unless he or she specifically elects before retirement not to be covered or to be covered at less than the maximum level, whereas a member who becomes entitled to retired pay on account of non-regular service but who has not reached the age of 60 must, within 90 days after notification that he or she has completed the number of years of service required for eligibility for retired pay, affirmatively elect coverage.[7] [8] Under maximum coverage, the member's retired pay is the "base amount" on which the survivor annuity and member cost are computed.[9] Under less-than-maximum coverage, the base amount is any sum between $300 and a member's total retired pay, as specified by the member. Covered members whose monthly retired pay is $300 or less do not have a less-than-maximum option; their base amount has to be their whole retired pay—unless they opt out altogether. The maximum survivor annuity is 55 percent of the member's base amount. Prior to amendment of the Survivor Benefit

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[6] *Inquiry into Survivor Benefits*, A Report by the Special Subcommittee on Survivor Benefits of the House Armed Services Committee, H.A.S.C. Document No. 91-68, printed in *Hearing before and Special Reports Made by the House Committee on Armed Services on Subjects Affecting the Naval and Military Establishments*, 91st Cong., 2d sess., 9510, 9511, 9515 (1970).

[7] Before enactment of the Uniformed Services Survivors' Benefits Amendments of 1978, Pub. L. No. 95-397, 92 Stat. 843 (1978), members entitled to retired pay for non-regular service who died before reaching age 60, i.e., before they became eligible to actually receive such pay, were not able to protect their dependents under SBP. (In transitional provisions, the Uniformed Services Survivors' Benefits Amendments of 1978 provided that members entitled to retired pay for non-regular service who had not reached age 60 by the date of enactment (September 30, 1978) were given until January 1, 1980, to elect to participate in the plan, but that period was later extended to March 31, 1980, by the Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, §816, 93 Stat. 803, 818 (1979).)

[8] A member eligible for retired pay on account of non-regular service who affirmatively elects to participate in the plan must, at the time of election, also indicate whether, should he or she die before reaching 60 years of age, the annuity provided should become effective on his or her death or on the sixtieth anniversary of his or her birth. This election becomes important, at least in part, because the "base amount" on which the annuity of the survivors of such a member is computed is determined by reference to what the member's basic pay would have been, had the member been alive and entitled to such pay, on the date the annuity becomes effective. For a member electing immediate, on-death coverage, SBP annuities are adjusted between the time of a member's death and the time the member would have reached age 60 for changes in the cost of living, whereas increases in basic pay between the time of a member's death and the time the member would have reached age 60 are not necessarily determined by changes in the cost of living, sometimes being more, sometimes less.

[9] In the case of a member eligible for retired pay for non-regular service who dies before reaching age 60, the "base amount" is the amount of retired pay to which the member would have been entitled, had he or she lived, on the date the member elects for the SBP annuity to become effective. See footnote 8 to this chapter, above.

Plan by the Military Survivor Benefits Improvement Act of 1989, enacted as Title XIV of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §§1401–1407, 103 Stat. 1352, 1577–1578 (1989), discussed more fully below, a member's cost for spouse's coverage was computed (1) at the rate of 2.5 percent of the first $300 of the member's base amount plus 10 percent of the remainder of the base amount in the case of retired members of regular components or (2) by an amount prescribed by the Secretary of Defense taking into account various actuarial considerations in the case of members entitled to retired pay for non-regular service. The cost for children's coverage is determined actuarially. When a cost-of-living increase occurs in retired pay, the amount of the annuity payable increases proportionately, as does an affected member's contribution. Annuities paid to survivors under the SBP program are increased in the same percentage amount, and at the same time, as increases in retired and retainer pay. According to official statistics, in 1998 the overall SBP participation rate was 79 percent for officer retirees and 55 percent for enlisted retirees[10]—a substantial increase over the 15-percent participation rate for the RSFPP program, but still lower than the 85-percent participation rate targeted during the development of the SBP program.[11]

SBP has a number of other features that differ from RSFPP. A member who is not covered by the plan because he or she is without dependents at the time of retirement may elect to enter it if he or she marries or acquires a dependent child after retirement. A member without eligible dependents may also elect before retirement to provide an annuity to any nondependent person who has an insurable interest in his or her life. An insurable-interest annuity may be canceled if the member acquires a spouse or dependent child after retirement and elects an annuity for them.

The SBP program is integrated with the Social Security system and requires certain reductions in annuity payments in connection with eligibility for Social Security benefits. A widow without children is eligible for a Social Security benefit at age 62 (she can receive an actuarially reduced benefit at age 60). Under integration, the SBP annuity of such a widow is reduced at age 62 by an amount equal to the lesser of the Social Security survivor benefit that would be paid based solely on the member's active military service after December 31, 1956, or 40 percent of the amount of the annuity that would otherwise be payable. A widow with one child in her care is eligible for a Social Security mother's benefit regardless of her age. Under the SBP program, the annuity of such a widow was once reduced by the amount of the mother's benefit payable based on the member's earnings record. A child is eligible for a separate Social Security benefit, which has no effect on SBP annuities. Different treatment is accorded a widow with more than one child in her care. Despite the fact that such a widow is also eligible for a Social Security mother's benefit regardless of her age, the act does not require her SBP annuity to be reduced on account of any Social Security benefits she receives. Rather, Congress decided that the concurrent receipt of Social Security benefits and an unreduced SBP annuity was justified as a matter of equity where the burden of rearing a multi-child family fell wholly upon a widow.

The survivor of a member who dies on active duty may be entitled to an SBP annuity as a supplement to any dependency and indemnity compensation (DIC) the survivor receives from the Department of Veterans Affairs, if the member has become eligible to receive retired pay, has qualified for retired pay but not applied for or been granted that pay, or has completed 20 years of active service but has not completed the 10 years of active service as an officer required for retirement as a commissioned officer. See Chapter III.D.4., "Dependency and Indemnity Compensation," above. A surviving spouse whose DIC entitlement is less than the maximum SBP annuity he or she would have received had the member been retired on the date of the member's death is entitled to an annuity in an amount sufficient to make up the difference. The SBP annuity also functions as a DIC supplement when a member dies in retirement of a service-connected cause and the surviving spouse is thus eligible for DIC. In this situation, the surviving spouse is similarly eligible for SBP payments only to the extent that the SBP entitlement exceeds the DIC

[10] *Department of Defense Statistical Report 1998*, September 30, 1998, 220.

[11] This compares with an overall participation rate of 57 percent for fiscal year 1986 retirees, when 73 percent of officers and 51 percent of enlisted personnel participated.

entitlement. If no SBP annuity is payable because the DIC entitlement is equal or greater, all SBP contributions made by the retired member before death are refunded to the surviving spouse. If part of the SBP annuity is payable, reductions in the member's retired or retainer pay are recalculated based on the lower annuity, and excess contributions, if any, are refunded to the surviving spouse.

The Act of September 21, 1972, Pub. L. No. 92-425, §4, 86 Stat. 706, 712–13 (1972), authorized a "gratuitous" annuity for certain "low-income" widows of retired personnel. To qualify for this special annuity, a widow must (1) have been entitled to a VA non-service-connected death pension; (2) have had less than $1,400 of annual income, subject to adjustments as specified in 10 U.S.C. §1448 note, from other sources; and (3) have been the widow of a retired member who retired before September 21, 1972, and died before September 20, 1973, without having been able to, or not having elected to, participate in the SBP program. (The Department of Defense Authorization Act for Fiscal Year 1984, Pub. L. No. 98-94, extended the latter date to March 20, 1974.) The annuity was payable in the amount needed to bring the widow's annual income from sources other than her VA death pension up to $1,400 or such greater amount as specified in 10 U.S.C. §1448 note. While this "income supplement" program remains in effect today, the $1,400 cutoff and income "target" referred to above twice were given specific increases—first to $2,100 by the Act of October 14, 1976, Pub. L. No. 94-496, §2(1), 90 Stat. 2375 (1976), and later to $2,340 by the Uniformed Services Survivors' Benefits Amendments of 1978, Pub. L. No. 95-397, §209(1), 92 Stat. 843, 848 (1978). The National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2581, prescribed that the amount of this allowance be increased at the same time and by the same rate as increases were made in the Social Security old-age and survivor benefits prescribed in 42 U.S.C. §402. That law further stipulated that, effective July 1 1997, the allowance be paid by the Department of Veterans Affairs rather than by the Department of Defense.

All persons on the retired rolls on the day before September 21, 1972, the effective date of the SBP program, were given the opportunity to enter the program during the following 12-month period.[12] Those who were in the RSFPP program had three choices. They were permitted to either (1) drop their RSFPP if they elected SBP coverage in an equal or greater amount; (2) continue their RSFPP and also enter the SBP program, provided the total of the two annuities did not exceed 100 percent of their retired pay; or (3) continue their RSFPP alone. Approximately 50 percent of the personnel on the retired rolls on September 20, 1972, elected to participate in the SBP program; the proportion of personnel who converted from RSFPP to SBP is not known.

The Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, §212, 95 Stat. 357, 383 (1981), provided for an open season—from October 1, 1981, to September 30, 1982—during which any "eligible member" who was (1) not already a participant in the SBP program could elect to be a participant or (2) already a participant could elect a higher coverage or change a beneficiary designation in favor of a spouse. For the purpose of this act, the term "eligible member" was defined as a member or former member who, on the date of enactment (August 13, 1981), was entitled to retired or retainer pay.

The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §941, 97 Stat. 614, 652–54 (1983), amended the Survivor Benefit Plan to carry out congressional intent underlying the Uniformed Services Former Spouses' Protection Act (USFPA), enacted as Title X of the Department of Defense Authorization Act, 1983, Pub. L. No. 97-252, §§1001–1006, 96 Stat. 718, 730–38 (1982). The thrust of the USFPA was to return to the states the authority to treat military retired pay in accordance with individual state laws in divorce settlements and to provide a direct-payment mechanism to ensure that valid state court orders were honored by military finance centers. See discussion of the USFPA at Appendix II, below. The USFPA also amended the Survivor Benefit Plan to permit a military member to designate a former spouse as a beneficiary of an SBP annuity. In thus amending the Survivor Benefit Plan, Congress had intended the option to elect SBP coverage to be available not only to those retiring in the future but also to those already

[12] This 12-month period was subsequently extended to 18 months by the Department of Defense Appropriation Authorization Act, 1974, Pub. L. No. 93-155, §804, 87 Stat. 605, 615 (1973).

retired. The Department of Defense, however, took the position that the option was not open to persons already retired, and Congress accordingly amended the SBP program to permit such election. Under the amendment, an individual retired before enactment of the Uniformed Services Former Spouses' Protection Act may now designate a former spouse as an SBP beneficiary so long as the retiree had elected to participate in the SBP program at the time of retirement. The 1984 Authorization Act, Pub. L. No. 98-94, *id*., also permitted individuals retired after enactment of the Uniformed Services Former Spouses' Protection Act to switch their then-current designation to a former spouse. The amendments made to the SBP program by the 1984 Authorization Act were characterized as "clarifications" of how SBP should apply in the case of former spouses and as having been implemented to carry out Congress's intentions in enacting the Uniformed Services Former Spouses' Protection Act.[13]

The Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §641, 98 Stat. 2492, 2545 (1984), further amended the SBP program to eliminate the Social Security offset against SBP annuities in the case of a survivor who is receiving Social Security benefits based on his or her own earnings, rather than a widow's or widower's benefits based on the earnings of a deceased member-spouse. This provision was itself rendered ineffective, however, by the Department of Defense Authorization Act, 1986, Pub. L. No. No. 99-145, §711(b), 99 Stat. 583, 670 (1985). In the words of the Senate Armed Services Committee, the elimination of the Social Security offset was justified on the grounds that "an SBP annuitant who has earned and is receiving a Social Security retirement benefit based on his own work record should [not] be penalized by having their [sic] SBP annuity reduced."[14]

The Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §642(a)(1)(B), 98 Stat. 2492, 2545–2546 (1984), also amended the SBP program to provide authority to initiate SBP annuity payments when the retired participant is missing. For the conditions attendant upon this authority, see the discussion of the same authority as applied to the Retired Serviceman's Family Protection Plan, above.

Finally, the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §644(2), 98 Stat. 2492, 2548 (1984), amended the provisions of the SBP program dealing with the designation of a former spouse as a beneficiary under the plan. The Uniformed Services Former Spouses' Protection Act, Pub. L. No. 97-252, §§1001–1006, 96 Stat. 718, 730–38 (1982), specified that such a decision must be voluntary and could not be ordered by a court. The 1985 Authorization Act clarified the intent of Congress that those administering the SBP program be able to defer to a court order that incorporated, ratified, or approved a voluntary written agreement by the retiree to designate the spouse as an SBP beneficiary. The amendment was characterized as a "clarification" of Congress's initial intent.[15]

The Survivor Benefit Plan Amendments of 1985, enacted as Title VII of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §§701–732, 99 Stat. 583, 666–78 (1985), effected a number of additional changes to the SBP program. As indicated in the relevant congressional reports, the changes contained in the Survivor Benefit Plan Amendments of 1985 were intended to overcome the problem that SBP had become "too complex for service members and their families to understand," with the result of "simplify[ing] the plan, mak[ing] it more attractive, and eliminat[ing] certain problems."[16] This theme was again stated in the House–Senate Conference Report: The Survivor Benefit Plan Amendments of 1985 were

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[13] See S. Rep. No. 98-213 (Committee of Conference), at 231, and H.R. Rep. No. 98-352 (Committee of Conference), at 231, accompanying S. 675, 98th Cong., 1st sess. (1983); and H.R. Rep. No. 98-107 (Committee on Armed Services), at 222–23, accompanying H.R. 2969, 98th Cong., 1st sess. (1983).

[14] S. Rep. No. 98-500 (Committee on Armed Services), at 219, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[15] See, e.g., S. Rep. No. 98-500 (Committee on Armed Services), at 221–22, accompanying S. 2723, 98th Cong., 2d sess. (1984), and H.R. Rep. No. 98-1080 (Committee of Conference), at 301, accompanying H.R. 5167, 98th Cong., 2d sess. (1984). (The catchline of Section 644 of the 1985 Authorization Act, Pub. L. No. 98-525, *id*., §644, 98 Stat. 2548, reads "Clarification of Authority to Elect Former Spouses as Beneficiaries Under the Survivor Benefit Plan.")

[16] H.R. Rep. No. 99-81 (Committee on Armed Services), at 250, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

characterized as having been intended to "improve and simplify the Survivor Benefit Plan as well as correct certain inequities associated with the program."[17]

In effecting changes to the SBP program, the Survivor Benefit Plan amendments of 1985 made both substantive and technical changes. The more important of the substantive changes are summarized below.

First, and probably most important, the SBP amendments modified the Social Security offset provisions of the program. When the SBP program was first established, Congress's major goal was to ensure that survivors of military retirees be provided "reasonable and continuous income replacement"[18]—a goal that Social Security could not meet because, for the vast majority of survivors, Social Security entitlement does not begin until the survivor reaches age 62. Because of this, the SBP program provided two different annuity levels for surviving beneficiaries—a level of benefits that applied before a survivor became eligible for Social Security, and another, lower level that applied thereafter. This reduction—known as the Social Security offset—was addressed in the Department of Defense Authorization Act, 1985, when Congress amended the SBP program to provide that there would be no Social Security offset against SBP annuities in the case of a survivor who was receiving Social Security benefits on the basis of his or her own earnings record, rather than a widow's or widower's benefit based on the earnings of a deceased member-spouse. As previously indicated, however, this provision was itself rendered ineffective—by the Survivor Benefit Plan Amendments of 1985, Pub. L. No. 99-145, Title VII, *id*.—on the grounds that Congress was going to address the whole Social Security offset problem in more detail and in another fashion.[19]

Under the amendments to the SBP program effected by the Survivor Benefit Plan Amendments of 1985, Title VII of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., §711(a), 99 Stat. 666–70, Congress, in an "effort to simplify and make the plan [as it relates to the Social Security offset] more understandable,"[20] eliminated the Social Security offset and established in its stead a "two-tier system under which the survivor would receive 55 percent of retired pay before age 62 and 35 percent thereafter in recognition of the entitlement to Social Security based on military service."[21] As enacted, these provisions were applicable to all SBP beneficiaries. In a savings provision, however, the 1985 SBP amendments provided that current survivors and future survivors of current retired or retirement-eligible members could have their SBP benefits computed under the old Social Security offset system or under the new, 55/35, two-tier system, whichever provided a greater benefit for an SBP-eligible survivor. All other potential beneficiaries, i.e., eligible survivors of future retirees who are not presently retirement-eligible, would be subject to the new 55/35, two-tier, income-replacement annuity. The effective date of the amendment in question was March 1, 1986.[22]

Second, the 1985 SBP amendments, Title VII of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., §714, 99 Stat. 672–73, changed the way in which the cost of SBP coverage was calculated for participants. Under the contribution formula applied to participants, the member is

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[17] S. Rep. No. 99-118 (Committee of Conference), at 442, and H.R. Rep. No. 99-235 (Committee of Conference), at 442, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[18] H.R. Rep. No. 99-81 (Committee on Armed Services), at 250, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[19] Section 641 of the 1985 Authorization Act, Pub. L. No. 98-525, *id*., §641, 98 Stat. 2545, was formally repealed by Section 711(b) of the Survivor Benefit Plan Amendments of 1985, Title VII of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., §711(b), 99 Stat. 670.

[20] S. Rep. No. 99-118 (Committee of Conference), at 442, and H.R. Rep. No. 99-235 (Committee of Conference), at 442, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[21] S. Rep. No. 99-118 (Committee of Conference), at 442, and H.R. Rep. No. 99-235 (Committee of Conference), at 442, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[22] Retirees who had elected to participate in the SBP program between October 19, 1984, and the date of enactment of the 1985 Authorization Act, Pub. L. No. 98-525, *id*., i.e., November 8, 1985, were given an option to withdraw from the SBP program any time before November 8, 1986.

permitted to select SBP coverage ranging from a minimum of $300 to a maximum of full retired pay. To participate, the member paid 2.5 percent of the first $300 for the "base amount" selected and 10 percent of the "base amount" above $300. With increases in basic pay over the years, members' retired-pay entitlements increased, with the result that the 10-percent factor applied to a larger percentage of a participant's "base amount" of coverage. This situation, in turn, had the effect of eroding the intended cost-sharing ratio of 60–40. As explained by the House Armed Services Committee, the cost-sharing ratio had changed from the intended 60–40 split to a 72–28 split—and this was at least in part due to the application of the 10-percent factor to an ever increasing portion of a participant's elected amount of coverage. To bring the cost split back closer to the intended 60–40 ratio, the 1985 SBP amendments indexed the $300 amount to which the 2.5-percent charge was to be applied to future increases in basic pay. Thus, while a participant can still elect $300 as "base amount" coverage, the lower 2.5-percent charge would be applied to an ever increasing amount.[23]

Third, a number of changes were made to the SBP program insofar as the rights of spouses and former spouses of plan participants were concerned. Under Section 721 of the 1985 SBP Amendments, Title VII of the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, *id*., §721, 99 Stat. 676–77, a married member who was eligible to provide a standard annuity under the plan could not, without the concurrence of the member's spouse, (1) elect not to participate in the plan; (2) elect less than the maximum level of SBP annuity; or (3) elect to provide an annuity for a dependent child but not for the spouse. As explained by the House Armed Services Committee, this change was intended to provide similar rights to spouses of members of the armed forces as were enjoyed by spouses of civil servants and private-sector employees under recent congressional enactments.[24] Under Section 715 of the 1986 Authorization Act, a participant in the plan who did not have an eligible spouse beneficiary, either because of death or divorce, and who remarried was given an option not to provide coverage for the new spouse. If a participant opted not to participate in the plan with respect to the new spouse, or to provide an annuity for the spouse at less than the maximum level, or to provide an annuity for a dependent child but not the new spouse, the new spouse is to be notified of the election. Thus, while plan coverage would be automatic upon remarriage unless an eligible retiree elected not to participate, the new spouse had no concurrence rights respecting coverage under the plan. Other changes were made also, but they can for the most part be characterized as "perfecting" or "technical" changes.

The Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), changed the way military retired and retainer pay would be calculated for members of the uniformed services who first became members on or after August 1, 1986. In brief, the "multipliers" to be applied to a member's "monthly retired or retainer pay base" in determining retired or retainer pay of affected personnel would be reduced from current levels until the member reaches age 62, at which time they would be restored to the same level as if the member had been eligible for retirement under the high-three formula. In addition, the Retirement Reform Act changed the way adjustments to retired or retainer pay are made for persons who first become members of a uniformed service on or after August 1, 1986. See Chapter III.B.1., "Nondisability Retired and Retainer Pay," above.

Under the amended retirement system, the "multipliers" used in determining retired or retainer pay of affected personnel were generally reduced, by one percentage point from current percentage multipliers for each year by which a member's term of service was less than 30 years.[25] With the application of the percentage multipliers, an affected person's retired or retainer pay is less than that of a member whose

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[23] The changes effected by this amendment apply only to persons who first participate in SBP on or after March 1, 1986. Section 714(b) of the Survivor Benefit Plan Amendments of 1985, Title VII of the 1986 Authorization Act, Pub. L. No. 99-145, *id*., §§714(b) and 731(a), 99 Stat. 673, 678; see 10 U.S.C. §1452 note.

[24] See H.R. Rep. No. 99-81 (Committee on Armed Services), at 252–53, accompanying H.R. 1872, 99th Cong., 1st sess. (1985).

[25] The multiplier for persons with 30 years of service—and more—is the same as under the former nondisability retirement system.

retired or retainer pay is computed using unreduced percentage multipliers. The lower retired or retainer pay resulting from this altered way of computing entitlements could, without adjustment, affect survivor annuities under the Survivor Benefit Plan. In fact, given the underlying purpose of SBP to provide "reasonable income replacement"[26] for survivors of deceased military retirees, Congress determined that the lower percentage multipliers applied in determining the retired or retainer pay of a retiree-member should not result in a lower Survivor Benefit Plan annuity to a survivor of a deceased retiree.[27] Accordingly, in Section 301 of the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, *id*., §301, 100 Stat. 702, Congress provided for Survivor Benefit Plan annuities to be computed using unreduced percentage multipliers for retired or retainer pay. That is, the amount of the annuity is determined on the assumption that at the time of death the retiree was receiving retired or retainer pay computed on the basis of unreduced percentage multipliers—which, except for persons retiring with 30 or more years of creditable service, or persons selecting a "base amount" stated in dollars rather than a percentage of retired or retainer pay, would result in higher annuities than would otherwise have been the case.[28]

The National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §§641–646, 100 Stat. 3816, 3885–3887 (1986), made additional revisions to the SBP program. First, as a "matter of equity" and to come into closer conformity with practice under Civil Service, Central Intelligence Agency, and private-sector survivor benefit plans,[29] Congress amended the SBP program to permit state courts to order military service members to participate in the Survivor Benefit Plan and to designate a former spouse as a beneficiary incident to a divorce agreement or decree. [See *id*., §641, 100 Stat. 3885–3886.]

Second, the 1987 Authorization Act, Pub. L. No. 99-661, *id*., §643, 100 Stat. 3886, changed the age at which a survivor-beneficiary could remarry without losing SBP benefits. Before the 1987 Authorization Act, the Survivor Benefit Plan provided that a surviving spouse/SBP annuitant who remarried before reaching age 60 lost entitlement to his or her SBP annuity based on the former marriage, but the entitlement could be reinstated if the remarriage ended in death or divorce. This provision tracked the survivor benefits available to survivors of Civil Service decedents until Congress reduced the remarriage age for Civil Service surviving spouses from 60 to 55. Congress, having concluded that "military surviving spouses should receive the same considerations as civil service surviving spouses,"[30] lowered the age at which the former could remarry without losing their SBP annuities from 60 to 55.

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[26] e.g., S. Rep. No. 99-118 (Committee of Conference), at 442, and H.R. Rep. No. 99-235 (Committee of Conference), at 442, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[27] See, e.g., H.R. Rep. No. 99-659 (Committee of Conference), at 31–32, accompanying H.R. 4420, 99th Cong., 2d sess. (1986).

[28] As previously indicated, the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, *id*., §102, 100 Stat. 683–85, also changed the way adjustments to retired pay were to be made for persons who first became members of a uniformed service on or after August 1, 1986. Generally speaking, adjustments to retired or retainer pay for such persons were to be made not on the basis of full cost-of-living changes (as measured by the Consumer Price Index) but on the basis of the percentage change in the Consumer Price Index less one percentage point. This new—and lower—adjustment mechanism was to apply in determining adjustments to SBP annuities for survivors of persons who first became members of a uniformed service on or after August 1, 1986. See 10 U.S.C. §1451(g)(1) as amended by Section 301(b) of the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, *id*., §301(b), 100 Stat. 702. (Under the Military Retirement Reform Act of 1986, affected members were to get a one-time restoration of full cost-of-living increases when they reached age 62, with subsequent adjustments based on the percentage increase in the Consumer Price Index less one percentage point. SBP annuitants were to get a similar one-time restoration—when the decedent would have reached age 62—with subsequent adjustments based on the percentage increase in the Consumer Price Index less one percentage point for the remainder of the annuitant's period of eligibility for SBP.)

[29] H.R. Rep. No. 99-718 (Committee on Armed Services), at 209, accompanying H.R. 4428, 99th Cong., 2d sess. (1986).

[30] H.R. Rep. No. 99-718 (Committee on Armed Services), at 211, accompanying H.R. 4428, 99th Cong., 2d sess. (1986).

The 1987 Authorization Act, Pub. L. No. 99-661, *id*., §642, 100 Stat. 3886, also amended the SBP program to authorize the payment of survivor benefits to the surviving dependent children of an active-duty, retirement-eligible member who died without a surviving spouse or if the surviving spouse also subsequently died. This amendment was intended to address an inadvertent oversight in the Survivor Benefit Plan Amendments of 1985, as enacted by the 1986 Authorization Act. Under the 1986 Authorization Act, Pub. L. No. 99-145, *id*., survivor benefits under the SBP program were authorized for the surviving dependent children of a deceased, retirement-eligible active-duty member if the member and the member's spouse died as a result of a common accident. This authorization failed to address the case of a single, retirement-eligible member who died on active duty leaving a dependent child or children as well as the case of a retirement-eligible member who died on active duty leaving a dependent child or children and a surviving spouse but whose surviving spouse subsequently died leaving the same dependent child or children. The amendment in question was made because of Congress's "concerns about the orphan children of retirement-eligible active duty personnel" and its belief that, "in the absence of a spouse beneficiary, all orphan children of deceased retirement-eligible active-duty personnel should be treated alike."[31]

Finally, and as previously indicated, the Survivor Benefit Plan Amendments of 1985 eliminated the Social Security offset to the SBP program in effect before that time while at the same time establishing a "two-tier" system under which a survivor received a SBP annuity of 55 percent of retired pay until age 62 and 35 percent thereafter. In practice, the reduction from 55 percent to 35 percent at age 62 was intended to accomplish the same thing as the Social Security offset while simplifying the plan and making it more understandable to members of the uniformed services and their spouses who were making decisions about whether or not to become plan participants. Thus, when the surviving spouse reached age 62 and became eligible for a Social Security benefit on the basis of the earnings record of the deceased plan participant, the SBP annuity dropped to compensate for the availability of the Social Security benefit. An unintended effect of the amendment in question, however, was to reduce the combined SBP-Social Security entitlements of surviving disabled children of deceased plan participants. In fact, surviving disabled children of deceased plan participants are not eligible for a Social Security benefit beginning at age 62 that is based on the decedent's earnings record—only a surviving spouse is. Accordingly, the 1987 Authorization Act, Pub. L. No. 99-661, *id*., §642(b), 100 Stat. 3886 (1986), amended the reduction provision to provide that it should not apply to the incapacitated dependent children of deceased plan participants who are over age 62 and who are incapable of supporting themselves because of physical or mental impairments that existed before their eighteenth or, under some limited circumstances, their twenty-second birthday.[32]

The National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §631, 101 Stat. 1019, 1104, 1106 (1987), amended the SBP program to provide specific authority for certain plan participants to withdraw from the plan with the consent of their spouses. Persons intended to benefit from the permissive withdrawal authority were those participants who had remarried in retirement and who were required to contribute to a plan from which their new spouse could never effectively benefit. Specifically, the permissive withdrawal authority was intended to enable a retiree who had, in retirement before March 1, 1986, remarried the widow of another military retiree whose SBP benefit based on her first husband's retirement income was larger than her SBP benefit based on her second husband's could ever be, to cease making contributions to a plan his spouse would logically never choose to take advantage of. In

[31] H.R. Rep. No. 99-718 (Committee on Armed Services), at 210, accompanying H.R. 4428, 99th Cong., 2d sess. (1986).

[32] See H.R. Rep. No. 99-718 (Committee on Armed Services), at 210, accompanying H.R. 4428, 99th Cong., 2d sess. (1986).

effect, this permissive withdrawal authority simply gave pre–March 1, 1986, retirees the same right as post–March 1, 1986, retirees had to withdraw from SBP participation.[33]

A more comprehensive withdrawal procedure was added in 1998. The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1798 (1997), provided for a "discontinuation period" extending for one year from the second anniversary of the date on which the participant begins to receive retired pay. Such an election to withdraw from SBP must be accompanied by the concurrence of the spouse, except under exceptional circumstances that make the spouse "unavailable," as that term is defined in 10 U.S. Code §1448(a)(3).

The National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §653, 102 Stat. 1918, 1991–1992 (1988), granted a gratuitous annuity of $165 a month— to be adjusted over time for changes in the Consumer Price Index—to surviving spouses of members who had died before November 1, 1953, while entitled to retired or retainer pay. While not strictly a part of the SBP or RSFPP programs, the annuity was proposed, in the words of the Senate Committee on Armed Services, because the committee "recognizes that this category of so-called 'forgotten widows' had no access to a survivor benefit program because none was in effect for military retirees before November 1, 1953."[34] The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1800 (1997), extended the $165 monthly annuity to the surviving spouses of similarly qualified members who died before March 21, 1974, with the same provision for subsequent cost-of-living adjustments as were made in the original legislation that covered retirees deceased prior to 1953. The first such adjustment was made by the National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2573 (2002), which increased the monthly annuity to $185.58.

Relatively major changes—at least in terms of the number of changes involved—were made to the Survivor Benefit Plan by the Military Survivor Benefits Improvement Act of 1989, enacted as Title XIV of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, Title XIV, §§1401–1407, 103 Stat. 1352, 1577–1589 (1989). First, the basis for determining the cost—in terms of the reduction in a retiree's retired or retainer pay—to a member or former member of a uniformed service for participating in the Survivor Benefit Plan was changed from the old 2.5 percent of the first $300[35] of the base amount of a member's prospective annuity plus 10 percent of the remainder of the base amount to a flat 6.5 percent of the base amount for all persons who first became members of a uniformed service on or after March 1, 1990. The method for determining the amount of the reduction in retired or retainer pay for SBP participation for pre–March 1, 1990, is either the new, flat 6.5 percent of the base amount or the old 2.5- percent/10-percent formula, whichever is more advantageous to the retiree. As explained by the Senate Armed Services Committee, which had sponsored the changes incorporated in the Military Survivor Benefits Improvement Act of 1989, the 6.5-percent-level cost was proposed "on the basis of a cost-benefit review of SBP conducted by the Office of the Actuary of the Department of Defense," which "indicated the premium adjustment was appropriate to preserve the design balance between member contribution and government subsidy of SBP benefits."[36] The Senate Armed Services Committee also noted:

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[33] See, e.g., H.R. Rep. No. 100-58 (Committee on Armed Services), at 205–6, and S. Rep. No. 100-57 (Committee on Armed Services), at 147–48, 100th Cong., 1st sess. (1987).

[34] S. Rep. No. 100-326 (Committee on Armed Services), at 96, accompanying S. 2355, 100th Cong., 2d sess. (1988).

[35] Because of adjustments to the $300 amount made pursuant to the changes to the SBP program instituted by the Survivor Benefit Plan Amendments of 1985, Pub. L. No. 99-145, *id*., discussed in the text following footnote 22, above, the $300 figure of the original SBP formulation had grown to $337 by the time the Military Survivor Benefits Improvement Act of 1989, Pub. L. No. 101-189, Title XIV, *id*., was enacted.

[36] S. Rep. No. 101-81 (Committee on Armed Services), at 180, accompanying S. 1352, 101st Cong., 1st sess. (1989); *cf*. H.R. Rep. No. 101-331 (Committee of Conference), at 659, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

> ... The net effect of the changes will be to reduce the cost of SBP to participants, and hopefully to increase participation in the SBP program.[37]

Second, the Military Survivor Benefits Improvement Act of 1989, Pub. L. No. 101-189, Title XIV, *id*., §1403, 103 Stat. 1579, changed the basis for the computation of the SBP annuity to which the survivors of certain officers who die while on active duty after becoming eligible for retired or retainer pay are entitled. Under prior practice, the SBP annuity of an officer with enlisted service who first became a member of a uniformed service before September 8, 1980, and who died while on active duty after becoming eligible for retired or retainer pay but who did not have 10 years of service as a commissioned officer, was determined on the basis of the basic pay of the officer's highest noncommissioned grade.[38] The amendment to the SBP program made by the Military Survivor Benefits Improvement Act permits the SBP annuity for the survivors of such an officer to be determined on the basis of the grade the member held at the time of death, independently of whether the member would have been entitled to retired or retainer pay based on that grade at the time of death. The Senate Armed Services Committee characterized this amendment to the SBP program as a "clarification."[39]

Finally, and substantively the most important of the amendments made to the SBP program by the Military Survivor Benefits Improvement Act of 1989, Pub. L. No. 101-189, Title XIV, *id*., §1404, 103 Stat. 1579–1586, was the prospective adoption— effective October 1, 1991—of the Supplemental Survivor Benefit Plan, codified as Subchapter III of Chapter 73, Title 10, United States Code, 10 U.S.C. §§1456–1460b. Under the Supplemental Survivor Benefit Plan, participants in the normal Survivor Benefit Plan are entitled to provide a "supplemental annuity" for a spouse or former spouse "beginning when the participant dies or when the spouse or former spouse becomes 62 years of age, whichever is later, in order to offset the effects of the two-tier annuity computation under the Survivor Benefit Plan." [See 10 U.S.C. §1456, as added by the Military Survivor Benefits Improvement Act of 1989, Pub. L. No. 101-189, Title XIV, *id*., §1404, 103 Stat. 1580–1581.] The supplemental annuity allows a participant in the SBP program to provide a level, 55-percent annuity to his or her surviving spouse, thus effectively overcoming the reduction of the normal SBP 55-percent annuity to 35 percent when the participant's surviving spouse becomes eligible for Social Security benefits. Thus, when a participant's surviving spouse became eligible for Social Security benefits, rather than having his or her SBP annuity reduced, any Social Security benefits received would be additions to the surviving spouse's level SBP annuity.

In support of its proposal, the Senate Committee on Armed Services noted:

> A recommended provision ... would also establish a supplemental option to the current SBP benefit structure. Currently, SBP recipients are entitled to 55 percent of SBP designated retired pay until age 62, at which point the benefit is reduced to 35 percent of SBP designated retired pay beyond age 62. The supplemental option would allow participants to elect a level benefit of 55 percent of SBP designated retired pay after age 62.... The committee believes the supplemental option fills a need by certain SBP participants for additional coverage beyond age 62, the age at which Social Security benefits normally become available.[40]

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[37] S. Rep. No. 101-81 (Committee on Armed Services), at 180, accompanying S. 1352, 101st Cong., 1st sess. (1989); *cf*. H.R. Rep. No. 101-331 (Committee of Conference), at 659, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).
[38] The retired or retainer pay of any member—including all officers, whether with prior enlisted service or not—who first became a member of a uniformed service on or after September 8, 1980, is determined, under 10 U.S.C. §§1401(a) and 1407, on the basis of the high-36-month-average-basic-pay of the member.
[39] S. Rep. No. 101-81 (Committee on Armed Services), at 181, accompanying S. 1352, 101st Cong., 1st sess. (1989).
[40] S. Rep. No. 101-81 (Committee on Armed Services), at 180–81, accompanying S. 1352, 101st Cong., 1st sess. (1989); *cf*. H.R. Rep. No. 101-331 (Committee of Conference), at 660–61, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

The National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §631, 104 Stat. 1485, 1580 (1990), postponed the effective date of the Supplemental Survivor Benefit Plan from October 1, 1991, to April 1, 1992, in order to give the Department of Defense more time to prepare "an actuarially neutral" plan for the implementation of the Supplemental Survivor Benefit Plan.[41] As it went into effect, the SSBP offers additional annuities amounting to 5, 10, 15, and 20 percent of a member's retirement pay to survivors of members who had elected maximum SBP coverage. Premiums for SSBP, which varied according to the supplemental annuity percentage and the age of the member making the selection, were uniformly higher than the 6.5 percent paid for basic SBP coverage. For example, in 2004 the premium for a 50-year-old member selecting a maximum 20 percent annuity would be 12.26 percent.

Despite the existence of a supplemental plan to balance the Social Security offset in the basic SBP, substantial pressure developed to further soften the effect of reducing SBP benefits when the recipient began receiving Social Security at age 62. In 2001 two bills, S.145 and H.R. 548, entitled the Survivor Benefits Plan Benefit Improvement Act, aimed to reform the two-tier Social Security provision. The bills authorized elimination of the Social Security–triggered reduction in stages between 2003 and 2011; at the end of that period, beneficiaries over age 62 would begin to receive a full 55-percent SBP annuity. An argument for such reform was the fact that survivors of workers who are covered by civilian federal government retirement plans and also qualify for Social Security do not incur as great a reduction in their total incomes when Social Security benefits begin at age 62.

The 2001 bills also mandated a gradual phaseout of the supplemental SBP annuity. Between 2001 and 2004, the maximum available supplemental annuity would have been 15 rather than 20 percent; beginning in 2004, the maximum supplementary annuity would be 10 percent; then in 2011, the supplementary option would be eliminated entirely. Because premiums are higher for the supplementary annuity, members who had chosen the SSBP would save money by this consolidation of the annuity into the single 55 percent of the less costly basic program. Although the 2001 bills did not pass, Congress continued to express concern about the equity of the program. In 2003 the House Armed Services Committee observed:

> Although Congress has enacted legislation designed to correct such inequalities, many similarly situated survivors continue to receive disparate treatment under SBP….The committee desires to correct such inequities. Accordingly, the committee directs the Secretary of Defense to review active-duty SBP benefit levels awarded to survivors under different circumstances of death, the procedures used by the Department of Defense to operate the program….and to propose legislation to ensure equitable treatment for the survivors of all members….[42]

The Military Survivor Benefits Improvement Act of 1989 also incorporated a provision for an open enrollment period—effective for the one-year period beginning October 1, 1991—to allow current members of the uniformed services to become participants in the Survivor Benefit Plan, thereby "encourag[ing] higher participation in the SBP program," and to permit "those currently enrolled in the [regular SBP] program to take advantage of the new option [under the Supplemental Survivor Benefit Plan]."[43] The most recent open enrollment period, mandated by the National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, §645, 118 Stat. 1811 (2004), began on October 1, 2005.

The 2005 Authorization Act also authorized the phased elimination of the two-tier annuity computation, the Social Security offset, which had been in effect since 1985 for surviving spouses age 62 and older. According to the provision, the annuity of a Social Security recipient increased in stages, from

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[41] e.g., H.R. Rep. No. 101-665 (Committee on Armed Services), at 282–89, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).

[42] H.R. Rep. No. 108-106 (Committee on Armed Services), at 329, accompanying HR 1588, 108th Cong., 1st sess. (2003).

[43] S. Rep. No. 101-81 (Committee on Armed Services), at 181, accompanying S. 1352, 101st Cong., 1st sess. (1989).

35 percent before October 2005, to 40 percent after September 2005, 45 percent after March 2006, 50 percent after March 2007, and 55 percent after March 2008. Thus, at that point the entire Social Security offset had been eliminated.

On August 26, 2009, the United States Court of Appeals for the Federal Circuit upheld a decision—*Sharp v. United States*, 82 Fed. Cl. 222 (2008)—that enabled certain surviving spouses to receive both Survivor Benefit Plan (SBP) and Dependency and Indemnity Compensation (DIC) payments with no offset. The entitled annuitants are those already receiving DIC who remarry after their fifty-seventh birthdays.[44] As the Court of Appeals pointed out, "prior to 2003, surviving spouses receiving DIC payments became ineligible to continue receiving the benefit when they remarried. Congress responded by passing the Veterans Benefits Act of 2003, which restored DIC benefits to surviving spouses who chose to remarry after age 57."[45] Another provision of the Veterans Benefits Act of 2003, Pub. L. No. 108-183, 117 Stat. 2835 (2003), section 101, stated "In the case of an individual who is eligible for dependency and indemnity compensation under this section by reason of section 103(d)(2)(B) [the age-57 provision] of this title who is also eligible for benefits under another provision of law by reason of such individual's status as the surviving spouse of a veteran, then notwithstanding any other provision of law (other than section 5304(b)(3) of this title), no reduction in benefits under such other provision of law shall be made by reason of such individual's eligibility for benefits under this section." This provision presented a conundrum since remarriage after age 57 would seem to convey entitlement that did not extend to an un-remarried surviving spouse. Such an illogical outcome led to interpretation that no other VA benefits arising from veteran's status could be offset. However the court ruled, the SBP and DIC programs had "contradicting provisions regulating offsets for those who receive both benefits."[46] In essence, the Court of Appeals found that the Department of Defense had been wrong when it "continued to enforce the SBP offset provision."[47]

In response to the Court of Appeals' upholding the decision in *Sharp v. United States*, on October 22, 2009, the Office of the Under Secretary of Defense (Personnel and Readiness) stated the Department of Defense would comply with the Court's decision without further appeal and directed the Defense Finance and Accounting Service to identify eligible recipients, restore SBP payments, and determine eligibility for retroactive payments.[48]

Effective October 1, 2008, SBP participants who reach 70 years of age and have made payments for 360 months (30 years) will be placed in "paid-up SBP" status. As a result, they will no longer have to pay premiums for continued SBP coverage.[49] This provision was established in the National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, §641, 112 Stat. 1920 (1998).

The National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, §644, 122 Stat. 3 (2008), established a monthly special survivor indemnity allowance to be paid to the surviving spouse or former spouse of a member of the uniformed services affected by the required Survivor Benefit Plan annuity offset for dependency and indemnity compensation. The law established the following payment schedule for the years 2009–13 and beyond, with a sunset clause ending the allowance on February 28, 2016:

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[44] Office of the Under Secretary of Defense (Personnel and Readiness), memorandum—"Subject: Unreduced Survivor Benefit Plan Annuity Payments for Eligible Surviving Spouses Remarried after Age 57," October002022, 2009.
[45] United States Court of Appeals for the Federal Circuit, *Patricia R. Sharp, Margaret M. Haverkamp, and Iva Dean Rogers v. United States (Sharp v. United States)*, 2008-5105, August 26, 2009, 2.
[46] *Sharp v. United States*, 3.
[47] *Sharp v. United States*, 3–4.
[48] "History of Retired Servicemen's Family Protection Plan (RSFPP) and Survivor Benefit Plan (SBP)," http://www.armyg1.army.mil/rso/docs/sbp/SBPHistory.doc (current as of March 2010) (accessed November 22, 2010).
[49] "Older Retirees to See SBP Premiums End," *Military.com Benefits*, http://www.military.com/benefits/ survivor-benefits/older-retirees-will-see-an-end-to-sbp-premiums (accessed May 18, 2010).

Special Survivor Indemnity Allowance	
Fiscal Year	**Payment**
2009	$50
2010	$60
2011	$70
2012	$80
2013	$90
After 2013	$100

Under the Thrift Savings Plan Enhancement Act of 2009, Pub. L. No. 111-31, Division B, Title I, 123 Stat. 1853 (2009), the payment schedule was increased in amount and extended as follows with a sunset provision ending the allowance on September 30, 2017:

Special Survivor Indemnity Allowance	
Fiscal Year	**Payment**
2014	$150
2015	$200
2016	$275
2017	$310

The Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 amended 10 U.S.C.1450 to authorize the payment of the Survivor Benefit Plan annuity to special needs trusts for the sole benefit of a disabled dependent child incapable of self-support because of mental or physical incapacity.[50] The National Defense Authorization Act for Fiscal Year 2016 amended 10 U.S.C. 1448(b) with a new paragraph permitting the election of a new spouse beneficiary after the death of a former spouse beneficiary.[51]

[50] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. 113-291, Title VI, Subtitle C, Sec. 624, 128 Stat. 3292, 3403.
[51] National Defense Authorization Act for Fiscal Year 2016, Pub. L. 114-92, Title VI, Subtitle D, Sec. 641, 129 Stat. 726, 852. (2015).

Chapter IV.C.3
Commissaries

Legislative Authority: 10 U.S.C. §§2484, 2486, and 2685. See 10 U.S.C. §§1063 (members of the reserve component), 4621 (Army), 7601 (Coast Guard), 7606 (Navy and Marine Corps), and 9621 (Air Force).

Purpose: To allow items of convenience and necessity—especially items of subsistence—to be made available for purchase by military personnel[1] at convenient locations and reasonable prices. Historically, the existence of commissaries has been viewed as a supplemental institutional benefit for, and by, members of the armed forces. Reservists and National Guard members and their families were granted unlimited commissary privileges in 2003.[2]

Background: The sale of foodstuffs to service members originated with the "sutler system." Sutlers were peddlers who followed the Army from place to place at frontier posts, selling food, liquor, and general merchandise to the troops. For the purpose of making needed items available to members of the armed forces, this practice was far from ideal, since the sutlers were commonly understood to be more interested in making money than in providing honest service. Whiskey took up a disproportionately large percentage of sales, and many soldiers were perpetually in debt after having accepted credit offered by the sutlers.

Sutlers continued to be the main provisioners of subsistence items to members of the armed forces until 1866, when Congress directed the Army to provide articles for sale to officers and enlisted men at cost. Since that time, Army commissary stores have provided foodstuffs and related grocery items at cost to members of the Armed Forces and their dependents. The Marine Corps opened its first commissary store in 1909; the Navy, in 1910; and the Air Force, in 1947.

In 1949 Congressman Philip J. Philbin of the House Armed Services Committee held hearings on Department of Defense resale activities, including commissary stores. From these hearings, joint service regulations, currently classified as Department of Defense Regulation 1330.17-R, evolved to govern commissary store operations. Annual oversight hearings and a number of special hearings have been held since—e.g., in 1953, 1957, 1970, 1972, and 1979—all of which reached the conclusion that the military resale system is a privilege that members of the armed forces and their families have come to expect and rely upon and that such personnel regard the system as an important benefit accruing to service membership. In 1972 a House Armed Services Committee special subcommittee on recruiting and retention came to the independent conclusion that commissary stores are a vital factor in the retention of military personnel and encourage enlistments.

Until 1985, the general provisions of the annual Department of Defense appropriations acts contained language precluding the use of appropriated funds for certain commissary store operating expenses, including commercial transportation in the United States, utilities in the contiguous United States, operating equipment and supplies, and store losses through shrinkage, spoilage, and pilferage of merchandise. [See, e.g., Act of October 12, 1984, Pub. L. No. 98-473, Title I, §101(h) [Title VIII, §8010], 98 Stat. 1884, 1924–1925 (1984); Department of Defense Appropriations Act, 1984, Pub. L. No. 98-212, Title VII, §713, 97 Stat. 1421, 1440 (1983); Act of December 21, 1982 (Further Continuing Appropriations, 1983), Pub. L. No. 97-377, Title I, §101(c) [Title VII, §714], 96 Stat. 1830, 1852–1853 (1982); Department

[1] When originally established, commissary stores were looked on as being primarily intended for the benefit of members of the armed forces and their dependents. Over time, however, other categories of personnel—including personnel in the non-military branches of the uniformed services and reserve forces personnel—became entitled to use them under varying circumstances.
[2] National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1521.

of Defense Appropriations Act, 1982, Pub. L. No. 97-114, Title VII, §714, 95 Stat. 1565, 1580–1581 (1981).]

In 1984 these prohibitions were codified at 10 U.S.C. §2484 by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §1401(i), 98 Stat. 2492, 2619–2620 (1984). As thus codified, appropriated funds may not be used, in connection with the operation of any commissary, to pay for the purchase of items to be sold (including transportation of such items in the contiguous United States), the maintenance of operating equipment and supplies, utilities furnished by the government (in the contiguous United States), or for any costs incurred in redeeming discount coupons.[3] As explained in the House–Senate Conference Report,[4] the limitations were enacted in response to the requirement of Section 1267 of the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1267, 97 Stat. 614, 705 (1983), which required the Secretary of Defense to submit to the House and Senate committees on armed services proposed legislation

> for codification into appropriate titles of the United States Code, or for incorporation into other existing laws, those provisions of law that have been enacted during the past five years as a part of the annual Department of Defense Authorization Act or the annual Department of Defense Appropriation Act under the heading 'General Provisions' and that in the opinion of the Secretary should be so codified or incorporated.

In establishing this requirement, the Senate Armed Services Committee noted:

> The committee has observed that it has been the practice of the Department of Defense to submit the same proposed legislative provisions each year in the Department of Defense Authorization Act or the Department of Defense Appropriations Act. Many of these provisions which have been enacted on an annual basis are appropriate for codification in Title 10 of the United States Code or in other parts of Federal law. Accordingly, it is the committee's view that the Secretary of Defense should evaluate each general provision that has been enacted over the last five years as part of a Defense Authorization or Appropriation Acts and submit to the Congress a legislative proposal for the codification of those general provisions which the Secretary judges to be appropriate for incorporation in the United States Code. The Committee believes that the enactment of such a codification bill would be a far more efficient manner of dealing with these legislative proposals than considering the same provisions every year.[5]

The Military Construction Authorization Act, 1975, Pub. L. No. 93-552, §611, 88 Stat. 1745, 1765 (1974), amended Title 10 of the United States Code to authorize surcharges on prices charged by commissaries in order to provide funds for construction, renovation, and other improvements.[6] Appropriated funds may be used to replace or repair commissary facilities damaged or destroyed by fire,

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[3] Under 10 U.S.C. §2484(b) as added by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, *id*., §1401(i), 98 Stat. 2619–2620, appropriated funds may, subject to regulations, in fact be used to defray such costs if they are reimbursed to the federal government. (Under this provision, the federal government is in effect permitted to provide a revolving line of credit to commissaries to fund the prohibited categories of operating expenses pending cash generation by sale of commissary items.)

[4] H.R. Rep. No. 98-1080 (Committee of Conference), at 336, accompanying H.R. 5167, 98th Cong., 2d sess. (1984). See S. Rep. No. 98-500 (Committee on Armed Services), at 265, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[5] S. Rep. No. 98- 174 (Committee on Armed Services), at 259, accompanying S. 675, 98th Cong., 1st sess. (1983). See H.R. Rep. No. 98-352 (Committee of Conference), at 262, accompanying S. 675, 98th Cong., 1st sess. (1983).

[6] H.R. Rep. No. 93-1545 (Committee of Conference), at 40–41, and S. Rep. No. 93-1136 (Committee on Armed Services), at 58, both accompanying H.R. 16136, 93d Cong., 2d sess. (1974).

theft, explosion, enemy acts,[7] or to construct new facilities or renovate existing facilities required by installation realignment or establishment.[8]

At the request of the chairman of the Morale, Welfare and Recreation Panel of the Subcommittee on Readiness of the House Armed Services Committee, on March 31, 1989, a memorandum of the Deputy Assistant Secretary of Defense for Resource Management and Support directed the conduct of "a comprehensive, unrestrained study of the military commissary system" to "strive toward developing policies that move the system forward in an orderly and consistent manner" while examining "options for ensuring a viable commissary program."[9] In response to this direction, the DOD Study of the Military Commissary System, known as the Jones Commission Report,[10] was submitted to Congress on December 18, 1989. As a result of the report and recommendations of the Jones Commission, Deputy Secretary of Defense Donald J. Atwood, by Department of Defense Directive dated November 9, 1990, established the Defense Commissary Agency to provide "an efficient and effective worldwide system of commissaries for the resale of groceries and household supplies at the lowest practical price (consistent with quality) to members of the Military Services, their families, and other authorized patrons" and "a peacetime training environment for food supply logisticians needed in wartime and ... subsistence support to military dining facilities consistent with Service needs."[11] The Defense Commissary Agency was established as a Department of Defense agency to operate all commissary functions of the individual services to ensure uniform commissary practices and policies for the armed forces and to integrate the commissary system into the overall force management structure, specifically including "management of subsistence war readiness materiel in peacetime and wartime."[12]

In November 1997, the Defense Reform Initiative devolved the day-to-day supervision of DeCA to the military departments. In May 1998, Defense Reform Initiative Directive #37 established the Commissary Operating Board to oversee day-to-day supervision of DeCA. In 1998 Congress amended sections 192 and 2482 of Title 10, United States Code, authorizing a special exception to the law governing the operation of defense agencies with regard to the supervision of the Defense Commissary Agency.[13] Implementing those provisions, the DRID #37 was revised in May 1998, providing that, "…as a corporate body, will advise on the prudent operation of DeCA and the commissary system, and assist in its overall supervision.…"[14]

In 2000 Congress revised 10 U.S.C. §2484, providing that the commissary system's operating expenses should be paid for with appropriated funds and that surcharge funds should be reserved to pay for infrastructure expenses. The revision specifically allowed appropriated funds to be used to pay salaries, utilities, communications expenses; to purchase operating supplies and services; to pay second-destination

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[7] 10 U.S.C. §2854, "Restoration or replacement of damaged or destroyed facilities."

[8] Department of Defense Instruction 7700.18, "Commissary Surcharge, Nonappropriated Fund (NAF) and Privately Financed Construction Reporting Procedures," July 16, 2003, Enclosure 3; and Department of Defense Regulation 1330.17-R, "Armed Services Commissary Regulations (ASCR),"April 1987, para. 4-404.4.

[9] *DOD Study of the Military Commissary System. Volume II. Appendices* (Washington, DC: Office of the Assistant Secretary of Defense for Force Management and Personnel, December 18, 1989), A-2. (The Department of Defense Study of Military Commissaries was conducted by a study group headed by a steering committee chaired by the then Deputy Assistant Secretary of Defense for Military Manpower and Personnel Policy, Lieutenant General Donald W. Jones. For this reason, the study group is known as the Jones Commission, and its report is frequently referred to as the Jones Commission Report.)

[10] See footnote 7 to this chapter, above.

[11] Department of Defense Directive 5105.55, ¶C.1.a. and b., dated November 9, 1990.

[12] Department of Defense Directive 5105.55, ¶E.1.e., dated November 9, 1990.

[13] National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 1984.

[14] Defense Reform Initiative Directive #37, "Revised: Oversight of the Defense Commissary Agency," December 23, 1998.

transportation costs within or outside the United States; and to pay any costs relating to above-store-level management of the commissary system. At the same time, 10 U.S.C. §2486 was amended to require the sales price of merchandise sold in, at, or by a commissary to include only the cost of first-destination transportation in the United States and the actual or estimated cost for shrinkage, spoilage, and pilferage.[15] In 2003 Congress again expressed concern with the funding of the commissary benefit when the House Armed Services Committee specifically noted, "that the value of the commissary benefit to service members is derived from consistent appropriated funding support of commissary operations. Accordingly, this section would require the use of appropriated funding to support commissary operating expenses."[16] Consequently it amended 10 U.S.C. §2484, making the use of appropriated funds for the payment of commissary expenses mandatory.[17]

An appropriated fund entity of the United States, commissary stores are exempt from sales taxes imposed by state and local governments.

The Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 authorizes DOD to purchase any commercial item for resale by commissary stores without using full and open competition procurement procedures.[18]

Cost: Although commissaries are operated primarily for the benefit of active-duty personnel and their families, it is in practice impossible to determine exactly who uses and benefits from the system most. Although cost savings average between 20 and 25 percent as compared with commercial retail outlets, it is difficult to quantify how much commissary privileges are worth to the people who actually use the system. This is in part because of the great variety of types of people using the facilities, such as active and retired military personnel and their surviving spouses, 100-percent service-connected disabled veterans and their surviving spouses, certain reserve forces personnel, active duty and retired commissioned officers of the Public Health Service, retired commissioned officers, ships' officers and members of the crews of vessels of the National Oceanic and Atmospheric Administration, and certain civilian employees of the government serving overseas, among others.

[15] National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-59. The effective date of revision of 10 U.S.C. §§2484 and 2486 was October 1, 2001.
[16] H.R. Rep. No. 108-106 (Committee on Armed Services), accompanying H.R. 1588, 108th Cong., 1st sess. (2003).
[17] National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1523.
[18] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, Title VI, Subtitle D, Sec. 631, 128 Stat. 3292, 3405 (2014).

Chapter IV.C.4
Military Exchanges

Legislative Authority: Legislative authority for establishment and operation of military exchanges is contained in 10 U.S.C. 2481. In addition, the Armed Services Exchange Regulations, first promulgated as a Department of Defense Directive in 1949, and currently issued with the approval of the House Committee on Armed Services, provide DoD-wide instructions governing exchange operations.

Purpose: The armed forces exchange programs are vital to mission accomplishment and form an integral part of the non-pay compensation system for active-duty personnel.[1] As a military resale and category C revenue-producing morale, welfare, and reaction (MWR) activity, the armed services exchanges have the dual mission of providing authorized patrons with articles of merchandise and services and generating nonappropriated fund (NAF) earnings.

Background: During the Revolutionary War, provision was made in the American Army for the appointment and control of private entrepreneurs, known as sutlers, who supplied the troops with various daily necessities, including wine and liquor, to supplement regular Army rations. Army regulations provided that each post or regiment could appoint one sutler. Each month the post or regimental sutler was assessed a charge of 10 to 15 cents per man, which was paid out of profits. The money thus raised was used to establish a special post fund—now referred to as a NAF activity—for the benefit of the troops. The War Department, by regulations, and Congress, by its approval of several acts in 1806 and 1821, recognized that soldiers needed conveniently located, on-post facilities where they could purchase food, beverages, and merchandise and find amusement and recreation.

Despite this more-or-less open recognition of the so-called sutler system, people were far from pleased with how it worked in practice. Because of the virtual monopoly sutlers enjoyed, they could sell shoddy merchandise at high prices without fear of losing customers. In addition, the sutlers' provision of credit for the purchase of goods frequently left the troops badly in debt, to the detriment of morale. After these and other abuses became particularly flagrant during the Civil War, in 1866 Congress passed a law abolishing the system.

In 1895 Department of the Army General Order No. 46 directed the establishment of a post exchange at every post. These exchanges were under the operational control and management of the installation commander. The present exchange system, which evolved out of the former independent exchanges at each Army post, began in 1941 as the Army Exchange Service. The effectiveness of this system was tested during the years of combat in World War II. By and large, the Army Exchange Service proved itself equal to the task of providing for the needs of the troops.

Following the establishment of the Department of the Air Force in 1947, it was decided to operate the exchanges of the Army and the Air Force on a joint basis, and the Army and Air Force Exchange Service (AAFES) was organized in 1948. On May 14, 1949, the Secretary of Defense delegated to the Secretaries

[1] When originally established, exchanges were primarily intended for the benefit of members of the armed forces and their dependents. Over time, however, other categories of personnel became entitled to use them: retired military personnel and their dependents; reserve personnel and their dependents; active-duty and retired commissioned officers of the Public Health Service and their dependents; active-duty and retired National Oceanic and Atmospheric Administration (NOAA) wage marine personnel and their dependents; civilian employees of DoD and their dependents when serving overseas or living on DoD installations in the United States; and veterans with 100-percent service-connected disability and their surviving spouses.

of the Army and Air Force functions, powers, and duties relating to exchange activities and authorized the joint operation of these activities.

The evolution of the present Navy Exchange System and the Marine Corps Exchanges paralleled in many ways that of the Army Exchange Service. So-called "bum boats" served Navy ships early in our nation's history, in much the same way sutlers served Army posts, providing convenience items to ship-based personnel. Navy ships' stores became full-fledged governmental activities in 1909 with the adoption of the precursor of present 10 U.S.C. ch. 651. Navy shore-based exchanges came under the governance of the Department of the Navy in 1923. Both systems were consolidated under the Navy Ships' Stores Office in 1946 and 1947. The first Marine Corps post exchange was established in 1897; in 1912 the last Marine post trader was replaced by an exchange.

Military exchanges are nonappropriated fund instrumentalities (NAFIs) of the Department of Defense that contribute greatly to the morale of military personnel and their dependents. As instrumentalities of the federal government, they are entitled to the sovereign immunities and privileges of the United States, as provided in the Constitution, statutes, treaties, and agreements with foreign governments. Military exchanges receive selected appropriated-fund support, but they generally are self-supporting with respect to the payment of civilian salaries, purchase of operating equipment and supplies, and maintenance of facilities and equipment.

In 1949 Congressman Philip J. Philbin of the House Armed Services Committee held hearings on DoD resale activities. From these hearings, department-wide regulations for the governance of exchanges were developed. Known as the Armed Services Exchange Regulations, they are currently codified as DoD Directive 1330.9. Hearings were held again in 1953, 1957, 1970, 1972, and 1979, each time concluding that the exchange system represents a benefit of military service upon which members of the armed forces[2] and their families have come to rely and that the system should be continued. Indeed, exchange privileges are generally regarded as among the most important institutionalized benefits accruing to military personnel and their families.

The National Defense Authorization Act for Fiscal Year 2016 requires DOD to submit to Congress a plan to make delivery of commissary and exchange benefits budget-neutral by October 1, 2018, requires GAO to assess the plan, and permits DOD to conduct one or more pilot programs to evaluate processes and methods for achieving budget neutrality in the delivery of commissary and exchange benefits.[3]

Cost: Except for salaries of a limited number of military personnel, costs of overseas transportation of exchange merchandise, and provision of utilities overseas, nearly all operating costs are covered by NAF. Although buildings built with appropriated funds are sometimes made available for exchange usage, new construction is, with minor exceptions, conducted with NAF. NAF are also used for facilities renovation, furniture, fixtures, and equipment, and interior maintenance and remodeling. When new facilities are constructed on government property with NAF, title to the building passes to the government immediately upon completion.

Savings: According to recent price surveys, exchange patrons save approximately 20 percent on overall purchases as compared with prices for the same merchandise in non-exchange stores

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[2] See footnote 1, above.

[3] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle E, Sec. 651, 129 Stat. 726, 854 (2015).

Chapter IV.C.5.
The Thrift Savings Plan

Legislative Authority: 37 U.S.C. §211, 5 U.S.C. §8432, 8440e

Purpose: To provide active-duty and Ready Reserve members an additional source of financial stability during their time of service and an additional incentive for career commitment through long-term, tax-deferred savings.

Background: The Thrift Savings Plan (TSP) was established for civilian government employees by the Federal Employees' Retirement System Act of 1986, Pub. L. No. 99-335, 100 Stat. 514 (1986). The plan is administered by the Federal Retirement Thrift Investment Board, a small independent federal agency. The original purpose of the TSP was to provide a separate fund of retirement income for civilian government employees, similar to that provided employees of the private sector by plans commonly called "401k's." The retirement system of the armed forces is called a "defined benefit plan." Participation is mandatory and benefits are determined strictly by a member's level and length of service at the time of retirement. By contrast, the pension systems of most private-sector employers are called "defined contribution plans," because an individual who opts to participate can select a level of contribution that is financially most advantageous, and that level can be changed at any time. The TSP is also a defined contribution plan. A significant difference between the TSP and defined sources of retirement income is the growth factor: because growth is achieved by earnings on the investment of member contributions in a range of low-risk government bonds and higher-risk private-sector funds, in 2009 the TSP offered five choices of varying risk levels plus several lifecycle funds targeted to specific future dates; growth rates may vary substantially from year to year. The earnings from all such investments are non-taxable until after they are withdrawn. The minimum age to withdraw without penalty is 59½.

In 1999 the Armed Services committees of both the House and the Senate voiced support for providing members of the armed forces a tax-deferred savings plan that would improve their long-term financial security. Thus the House committee stated:

> The committee believes that tax deferred savings plans offer the military services cost effective opportunities for enhancing retention that should be explored. Accordingly, the committee directs the Secretary of Defense, in coordination with the services of the military departments, to examine the potential for implementing a variety of options for tax deferred savings plans as supplements and alternatives to current military retirement systems. The Secretary should consider options that include government matching contributions, time-delayed vesting schemes, and plans designed to increase retention within select segments of the force, to include those members with more than 20 years of service.[1]

The Senate Armed Services Committee made more specific recommendations on this subject:

> The committee recommends a provision that would, effective July 1, 2000, authorize members of the uniformed services to participate in the Thrift Savings Plan now available to federal civil service employees….Participating in a Thrift Savings account would encourage personal savings and enhance the retirement income for service members, who currently do not have access to a 401k savings plan….If enacted, military personnel would be able to join other federal workers in a savings plan that would enhance the value of their retirement system and permit them to improve quality of life. The committee

[1] H.R. Rep. No. 106-162 (Committee on Armed Services), at 364, accompanying H.R. 1401, 106th Cong., 1st sess. (1999).

> believes this provision will be an important incentive for military personnel to remain on active duty or in the Ready Reserve.[2]

Following the committee recommendations, the National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 670 (1999), made military personnel in all branches, as well as the uniformed personnel of the National Oceanic and Atmospheric Administration and the Public Health Service, eligible to participate in the Thrift Savings Plan under essentially the same conditions as those governing the participation of civilian federal employees. Under the military system of participation, member contributions are not matched by the employing agency, as they are in the Federal Employees' Retirement System, which is the newer of the two Civil Service retirement systems. Members of the armed forces may contribute any percentage, from 1 to 100, of their basic pay as well as any percentage of incentive or special pay that they receive, as long as such contributions do not exceed the monetary limits placed by the Internal Revenue Service (IRS) on total annual contributions. In 2017 the Internal Revenue Code limit will be $18,000. Contributions to a catch-up plan for older participants will be capped at $6,000. Members eligible for the combat-zone tax exclusion may contribute any percentage of their tax-exempt income to their TSP account up to the IRS limit of $54,000.[3]

As part of the modernization of the military retirement system, the National Defense Authorization Act for Fiscal Year 2016 provides a government-matching Thrift Savings Plan (TSP) benefit for those who would enter uniformed service on or after January 1, 2018, or a member serving before that date who makes a voluntary election to opt-in to the new plan.[4] The TSP element would provide a one percent automatic agency contribution to all uniformed servicemembers upon reaching 60 days of service and continue until they would reach their twenty-sixth year of service. At two years of service, a member's TSP would vest and the Secretary concerned would match a servicemember's contributions of up to an additional four percent (maximum of five percent) of that servicemember's base pay. Uniformed servicemembers would be automatically enrolled at 3 percent matching contributions with the option to raise or lower their contribution level. TSP government-funded matching contributions would continue until a uniformed servicemember leaves or retires from the uniformed service. Government matching contributions in the TSP would be provided through 26 years of service. The joint explanatory statement accompanying the final defense authorization bill "notes that all uniformed servicemembers who would enter and serve prior to the date of implementation of the modernized retirement system would be grandfathered into the old retirement system. "[5]

The Thrift Savings Plan Enhancement Act of 2009, Pub. L. No. 111-31, Division B, Title I, 123 Stat. 1853 (2009), allows the TSP to offer a Roth TSP account in addition to a traditional TSP account. The Roth TSP account was implemented in 2012. For members of the uniformed services, Roth contributions are subject to the elective deferral limit of $18,000 even if they are contributed from tax-exempt pay. Servicemembers deployed to a designated combat zone may not make traditional catch-up contributions from tax-exempt pay, but Roth catch-up contributions from tax-exempt pay are allowed.[6]

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[2] S. Rep. No. 106-50 (Committee on Armed Services), at 323, accompanying S. 1059, 106th Cong., 1st sess. (1999).
[3] "Thrift Savings Plan: Contribution Limits," https://www.tsp.gov/PlanParticipation/EligibilityAndContributions/contributionLimits.html (accessed November 10, 2016).
[4] National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, Title VI, Subtitle D, Sec. 632, 129 Stat. 726, 845 (2015).
[5] U.S. House of Representatives. Committee on Armed Services. Legislative Text and Explanatory Statement to Accompany S. 1356, Public Law 114-92, Committee Print No.2, 114th Cong., 1st sess., 677, November 2015. https://www.gpo.gov/fdsys/pkg/CPRT-114JPRT97637/pdf/CPRT-114JPRT97637.pdf (accessed November 07, 2016).
[6] "Thrift Savings Plan: Contribution Limits."

Unlike retirement annuities, earnings from the TSP contributions of a member of the armed forces belong to the individual, no matter how long the term of service. Upon a member's completion of service, TSP funds can be withdrawn in whole or in part, they can be converted into "401k" funds or conventional individual retirement accounts in the private sector, or they can be moved into a civilian TSP if the individual becomes a federal employee. If the member is married, approval of the spouse is required for most types of withdrawal. In 2016 TSP participation by members of the uniformed services was 44.8 percent overall.[7]

[7] Federal Retirement Thrift Investment Board, "Minutes of the Meeting of the Board Members," December 19, 2016, https://www.frtib.gov/MeetingMinutes/2016/2016Dec.pdf.

Chapter V.A.
Overview of Manpower-Related Cost Items

In addition to the various pays, allowances, and other benefits set out under Chapters II, III, and IV of this edition of *Military Compensation Background Papers*, military personnel also receive a number of other allowances or benefits that are related to and derive from the specialized needs and requirements of the military personnel system. In some cases, these allowances or benefits are intended to offset special expenses military personnel and their dependents are required to bear as a condition of service in the military forces of the United States, and in thus offsetting expenses military personnel in fact bear, there is little question but that a benefit of significant proportion is conferred on affected personnel. With respect to such allowances and benefits, the reason they are provided to military personnel and their dependents is to try to ensure that there are no artificial disincentives to career military service. Among the allowances and benefits made available to military personnel for this and similar reasons are the various reimbursements set out in Chapter V.C. of this edition of *Military Compensation Background Papers* as well as a few of the benefits covered in Chapter V.B.

Other benefits are provided to members and former members of the armed forces more for the convenience of the government or to assist former members in their transition back to productive employment in the civilian economy. These benefits are, in the main, covered in Chapter V.B. of this edition of *Military Compensation Background Papers*.

The principles and concepts of military compensation that are exemplified by the system of manpower-related cost items covered in this Chapter V of *Military Compensation Background Papers* are focused on the overall effectiveness of the compensation system in both peace and war; on the achievement of substantial equity for members of the armed forces, especially, in the case of reimbursements, in the sense of establishing a compensation system that is generally competitive with compensation in the private sector; on the interrelationship between the military manpower requirements of the United States and the compensation system considered as a whole; and on motivation of members and potential members of the armed forces.

Chapter V.B.1.
Professional Education and Training

Legislative Authority: 10 U.S.C. §153(a)(5)(c) and 37 U.S.C. §§203(c)(1) and 209. Also miscellaneous provisions of Title 10, United States Code.

Purpose: To educate and train military personnel in skills required by and for the primary benefit of the various military services and to prepare such personnel for the increasingly greater responsibilities they will be called upon to assume as they progress in their military careers.

Background: Professional education and training, although it often may result in a collateral benefit to the individual service member who receives it, is intended primarily to benefit the military services of the United States, enabling them to meet national-security objectives. In his State of the Union address to Congress in December 1796, President Washington expressed the following rationale for professional education and training in terms that have withstood the test of time:

> However pacific the general policy of a nation may be, it ought never to be without an adequate stock of military knowledge for emergencies.... In proportion as the observance of pacific maxims might exempt a nation from the necessity of practicing the rules of the military art ought to be its care in reserving and transmitting, by proper establishments, the knowledge of that art. Whatever arguments may be drawn from particular examples superficially viewed, a thorough examination of the subject will evince that the art of war is at once comprehensive and complicated, that it demands much previous study, and that the possession of it in its most improved and perfect state is always of great moment to the security of a nation.[1]

The Act of March 16, 1802, ch. 9, §§26 and 27, 2 Stat. 132, 137 (1802), recognized the need for a "stock of military knowledge" by providing for a corps of engineers in the U.S. Army and by specifying that "the said corps, when so organized, shall be stationed at West Point in the state of New York, and shall constitute a military academy." The Act of April 29, 1812, ch. 72, 2 Stat. 720 (1812), expanded the military academy's teaching staff and established a four-year curriculum to include fields of study other than engineering. The Act of July 13, 1866, ch. 176, §6, 14 Stat. 90, 92 (1866), further reduced the academy's engineering emphasis by permitting the selection of a superintendent from any branch of the Army.

A "Naval School" was established by Secretarial regulations in 1845, and the Naval Appropriation Act of August 10, 1846, ch. 176, §4, 9 Stat. 97, 100 (1846), supported this action by appropriating $28,200 "for repairs, improvements, and instruction at Fort Severn, Annapolis, Maryland." Revised regulations of 1850 renamed the school the "United States Naval Academy." During the first few years of the Naval Academy's existence, its student body was drawn from midshipmen on active duty, many of whom had completed several years of service. The Act of July 16, 1862, ch. 173, §11, 12 Stat. 583, 585 (1862), even though it made no explicit change in the Naval Academy's status as a regulatory rather than a statutory entity, legislatively recognized its existence and title by enacting rules governing the admission, number, age limits, and dismissal of "students." The Act of May 21, 1864, ch. 93, §4, 13 Stat. 80, 85 (1864), provided the first statutory underpinning for the establishment of the Naval Academy. It followed a temporary relocation during the Civil War to Newport, Rhode Island, and provided that "the United States Naval Academy shall be returned to and established at the naval academy grounds in Annapolis...." The Act of March 3, 1873, ch. 230, §1, 17 Stat. 547, 555 (1873), prescribed a six-year course of instruction for the academy, with the first four years to be spent in academic studies and the remaining two years at sea. The Act of March 7, 1912, ch. 53, Pub. L. No. 62-98, 37 Stat. 73 (1912), eliminated the two years' service-at-sea requirement and established a four-year course with summer cruises and practical instruction.

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[1] James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents 1789–1897*, Vol. 1 (Washington, DC: GPO, 1900), 21–22.

The United States Air Force Academy was authorized by the Act of April 1, 1954, ch. 127, Pub. L. No. 83-325, §2, 68 Stat. 47 (1954); was officially activated at a temporary site at Lowry Air Force Base, Colorado, in August 1954; admitted its first class of cadets in July 1955; and moved to its permanent location near Colorado Springs in August 1958.

Under 37 U.S.C. §203(c)(1), as amended by the National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-150, service-academy cadets and midshipmen are entitled to monthly "cadet ... or midshipman pay" amounting to 35 percent of the basic pay received by an officer of grade O-1 with less than two years of service. In 2004 that amount was $792.54 per month. In 1977 a provision for pay levels of cadets and midshipmen was added to 37 U.S.C. §203 by Pub. L. No. 95-79. Between 1977 and 2001, this payment was prescribed as a specific amount rather than a percentage. The last two such amounts, set respectively by the authorization acts for fiscal years 1995 and 1999, were $558 and $600, prior to establishment of the percentage formula in 2001. Cadets and midshipmen are also entitled to rations in kind or commuted rations at all times.

The service academies are not the sole providers of undergraduate military education and training. Senior Reserve Officers' Training Corps (ROTC) programs at civilian educational institutions play a prominent part in such education and training and now constitute the principal source of new officers for the services.

With a few notable exceptions, such as Norwich University, the Military College of the Citadel, and the Virginia Military Institute, state and private colleges did not offer military training in the years before the Civil War. The virtual absence of such training, together with the resignation of many officers to serve with the Confederacy, resulted in a severe shortage of trained officers in the first years of the war, especially in the Union forces. The early Civil War experience was responsible for the inclusion of military instruction in the curricula of the colleges founded under the so-called "Morrill Act," the Act of July 2, 1862 (Land Grant Act of 1862), ch. 130, §4, 12 Stat. 503, 504 (1862). The act awarded a grant of public lands to each state agreeing to use the funds from the sale of such land for "the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts...."

The Morrill Act did not make any provision for federal financial or other assistance to land-grant colleges in conducting military programs, nor did it make clear whether military training was compulsory or optional for students at the colleges. As a result, the quality of instruction at land-grant colleges was uneven. Some colleges made military instruction compulsory; others made it elective. Some made the instruction a four-year requirement; others fixed a shorter requirement. The number of hours devoted to military instruction each week varied from school to school, as did the status of professors of military science and tactics, the wearing of uniforms during instruction periods, and military course content. This situation was tolerated as long as the United States was not engaged in a major conflict, but the imminence of the nation's entry into World War I made a change imperative.

The Act of June 3, 1916 (National Defense Act of 1916), ch. 134, Pub. L. No. 64-85, §40, 39 Stat. 166, 191 (1916), abolished the land-grant-college system of undergraduate military education and replaced it with an ROTC structure, which, with modifications, continues to the present. The act authorized the formation of, and the furnishing of arms, equipment, and means of transportation to, ROTC units at civilian educational institutions, and provided for the assignment of Army officers to participating institutions as professors and assistant professors of military science and tactics. It specified that ROTC comprise at least 100 students, required that an average of at least three hours a week be devoted to military instruction, allowed the establishment of both four-year and two-year ROTC programs, and permitted participating institutions to determine whether military courses would be compulsory or elective. It also authorized the payment of a monthly subsistence allowance during the last two years of the military course to ROTC cadets who had successfully completed the first two years. The Act of March 4, 1925, ch. 536, Pub. L. No.

68-611, §22, 43 Stat. 1269, 1276 (1925), brought the Navy into the ROTC system on the same basis as the Army.

The naval ROTC system was expanded to include a scholarship program by the Act of August 13, 1946, ch. 962, Pub. L. No. 79-729, §§3 and 4, 60 Stat. 1057, 1058–1059 (1946). This naval scholarship program—popularly known as the Holloway Plan from the name of the officer who headed the board that recommended it— provided for financial assistance, including a monthly subsistence allowance and payment of tuition, books, fees, etc., to selected students in the four-year ROTC course. The Army did not seek, and was not granted, similar authority for its ROTC program. The Reserve Officers' Training Corps Vitalization Act of 1964, Pub. L. No. 88-647, 78 Stat. 1063 (1964), established a uniform ROTC system for all military departments. In essence, it extended the naval ROTC program, including the Holloway Plan, to all three military departments.

Members of the Senior Reserve Officer's Training Corps who have committed themselves to complete advanced training and make themselves eligible for commission as reserve officers at the end of that training receive a monthly subsistence allowance. Eligibility for the allowance begins the day advanced training begins, and it ends upon completion of that training. Barring an extension of training into an extra year, the maximum period of eligibility is 20 months; in no event can eligibility extend for more than 30 months.

In recent years, Congress has mandated two increases in the amount of the allowance for senior ROTC trainees. The National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 512 (1999), raised the allowance from $150 per month (the level at which it had been for the previous five years) to $200 per month. The National Defense Authorization Act for 2001 then prescribed a range of payments between $250 and $674 per month, to be specified by the Secretary of Defense as set forth in Chapter 59, volume 7A of the DoD Financial Regulations. Within that range, in 2004 members in their first year of senior training received $350 per month and those in their second year received $400 per month.

In addition to the service academies and the ROTC programs, pre-commissioning education and training is provided through a number of other officer-procurement programs. These include (1) Navy Reserve Officer and Aviation Reserve Officer Candidate Programs and Marine Corps Platoon Leader Classes, participants in which are college students with training conducted off-campus; (2) officer candidate schools in all the services; (3) various health-professional acquisition programs; and (4) enlisted degree-completion and commissioning programs at civilian institutions: the Naval Enlisted Scientific Education Program, the Marine Enlisted Commissioning Education Program, and the Air Force Airman Education and Commissioning Program. Enlisted personnel who complete the latter programs also attend the officer candidate school for their respective branches of service before being commissioned. Participants in Navy Reserve officer and Aviation Reserve officer candidate programs and Marine Corps platoon officer classes are entitled to the same monthly subsistence allowance as ROTC members in advanced training. All the pre-commissioning programs, including the service academies and ROTC, require a military obligation from participating students to "pay back" the government's investment in their professional education and training.[2]

The various pre-commissioning education and training programs are by and large designed to provide a broad general education and foundation of military knowledge. Hence, most newly commissioned officers also receive formal initial or specialized area training for the specific type of duty they will be performing. Ordinarily, such training is conducted by each officer's own branch of service. Military skill-progression training normally follows after a period of practical experience and is designed to enable the officer to assume more advanced responsibilities.

[2] In most cases, the "military obligation" required for pre-commissioning programs is an active-duty obligation, although some Army officers may serve their obligations in reserve components.

The next part of the officer education and training pattern is professional-development education, the purpose of which is to prepare officers to cope with the different problems they may have to deal with over the course of a military career. The annual training report submitted to Congress by the Department of Defense divides the professional-development service schools for officers into three educational levels—career officer professional schools, intermediate service schools, and senior service colleges.[3] The Marine Corps Amphibious Warfare Course and the Air Force Squadron Officer School, which are service-wide in scope, constitute the greatest part of professional-development service schools at the "career" level, although there are more narrowly directed, specialized-skill training schools as well, such as the Navy Surface Warfare Officers Course and the Army's Armor Officer Advanced Course.[4]

The Command and Staff Colleges operated by each of the services and the Armed Forces Staff College are at the "intermediate" level. Their purpose is to prepare officers for command and staff duties at all echelons of their respective services and in joint or allied commands. Some of these schools have a long tradition. The Army Command and General Staff College, for example, opened in 1881 as the School of Application for Infantry and Cavalry. Other schools at this level include the College of Naval Command and Staff, the Marine Corps Command and Staff College, and the Air Command and Staff College.[5]

Each military department operates a senior service school or "war college." Also at the senior level is the National Defense University, consisting of two joint-service senior-service schools, The National War College and the Industrial College of the Armed Forces. Each of these schools is designed to prepare officers for senior command and staff positions at the highest levels in the national-security establishment and the allied command structure. All integrate the study of economic, scientific, political, sociological, and other factors as they relate to national security, the unifying focus being the study of national goals and national-security policy. The Industrial College of the Armed Forces emphasizes the use and management of national resources. Most of these colleges, too, have a relatively long tradition. The Naval War College was established in 1884, the Army War College in 1901, and the National War College and the Industrial College of the Armed Forces in 1946.[6]

In addition to instruction and training provided by war colleges, command and staff colleges, and the like, professional development may consist of postgraduate studies at the Naval Postgraduate School, the Air Force Institute of Technology, or at civilian institutions, depending on where the required education can best be obtained. The purpose of these programs is to fill essential and "validated" military positions requiring specialized advanced knowledge attainable only through graduate-level education. Under these programs, military officers undergo graduate education on a full-time, fully funded basis. An active-service payback obligation is required of all officers who enter any of the programs. Under current regulations, a minimum service-payback obligation of three years for the first year of schooling and one year for each following year of schooling is required of all officers entering any of the graduate-level programs.[7]

Sprinkled throughout the professional education and training pattern are programs that permit selected members to work toward associate, baccalaureate, or advanced degrees. These programs are intended to enhance members' technical qualifications and improve their general educational attainments. They also serve as a recruiting and retention incentive, as reflected by the fact that most such programs carry an additional service obligation as a "payback" for the schooling provided. To the extent possible,

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[3] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter VII, 59–64.

[4] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter VII, 61.

[5] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter VII, 62–63.

[6] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter VII, 63–64.

[7] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter VII, 66–68. See also DoD Directive 1322.10 of August 31, 1990.

personnel in advanced-education programs are later used to satisfy "validated" service requirements, thereby reducing the required student load in graduate education for such billets. Other full-time professional education furnishes training in a variety of job-oriented skills that can best be acquired through short-term courses, as well as training courses to expand the skills of health professionals and provide them with up-to-date information on the latest techniques in their fields.[8]

The enlisted professional education and training pattern is notably different from the officer pattern. Enlisted personnel do not receive pre-entry military education; their training begins at the recruit depots after they have entered into their enlistments. Recruit training is designed to give new enlisted entrants the basic knowledge and general skills they will need to perform as members of military units, to provide an orderly transition from civilian to military life, and to motivate recruits to become dedicated and productive members of the armed forces. Following this "introductory" and "indoctrination" training, enlisted members are normally assigned to formal initial skill training or to on-the-job training leading toward a low-level military occupational specialty. On-the-job training once predominated in enlisted initial skill training, but the increasingly complex technological demands placed on service personnel have now made more formal instruction the principal method pursued at present. After their recruit and initial skill training, the further professional education and training of enlisted personnel is usually limited, during the initial enlistment at least, to on-the-job experience. The major exception is Navy training, conducted by fleet schools, in such shipboard duties as fire fighting and damage control.[9]

Enlisted members may be assigned to skill-progression training upon reenlistment,[10] but in most cases they progress in their skill areas through the acquisition of advanced practical knowledge gained on the job and without additional formal training. Furthermore, some enlisted personnel will attend NCO professional-development training programs to prepare them for increased supervisory and leadership responsibilities.[11]

Normally, few enlisted personnel attend regularly programmed specialized courses after mid-career; however, on occasion new equipment or systems are introduced, and senior enlisted personnel may be formally trained in operation and maintenance techniques. Selected senior enlisted personnel attend schools, such as the Army Sergeants Major Academy, which are, on the NCO level, similar in purpose to the intermediate and senior service schools in the officer education system.[12]

Cost: For the cost of professional education and training from 1972 to 1976, see table V-1, below.

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[8] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter VII, 68–70.
[9] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapters III and V, 14–22, 33–41.
[10] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter V, 39–41.
[11] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter V, 14–22, 33–41.
[12] "Military Manpower Training Report for FY 1997," submitted to Congress pursuant to 10 U.S.C. §115a(f), June 1996, Chapter V, 64–66.

Table V-1. Professional Education and Training, 1972–76

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	19,698	$431,400	12,893	---	6,805	---
1973	19,621	474,800	11,911	---	7,710	---
1974	19,032	472,100	10,241	---	8,791	---
1975	15,308	431,700	9,003	---	6,305	---
1976	14,062	367,800	8,677	---	5,385	---

--- No data available.

Note: Officer and enlisted cost breakout is not available for any year. No data are available for any year. following fiscal year 1976.

Source: OASD (M&RA) (Defense Education).

Chapter V.B.2.
Veterans' Educational Assistance (GI Bill)

Current Legislative Authority: Chapters 30, 32, 33, 34, and 35, Title 38, United States Code (38 U.S.C. §§3001–3036, 3201–3243, 3301–3324, 3451–3493, and 3500–3566, respectively), Chapter 107, Title 10, United States Code (10 U.S.C. §§2141–2149), and Chapters 1606 and 1607, Title 10, United States Code (10 U.S.C. §§16131–16137, and 16161–16167).

Purpose: As set out in 38 U.S.C. §3451, in creating the Veterans' Educational Assistance Program, Congress intended to (1) enhance and make more attractive service in the armed forces, (2) extend the benefits of higher education to qualified and deserving young people who might not otherwise be able to afford it, (3) provide vocational readjustment and restore lost educational opportunities to those service members whose careers had been interrupted or impeded by active duty after January 31, 1955, and (4) aid such persons in attaining the vocational and educational status they might normally have aspired to and attained had they not served their country. All of the educational assistance programs covered by this chapter share these purposes.

Background: To assist the speedy and successful reintegration of returning veterans, particularly drafted veterans, into civilian life, Congress has over the years enacted a series of laws, popularly known as "GI Bills," covering veterans of World War II, the Korean conflict, the post-Korean "Cold War" Period, the period of Southeast Asia hostilities, and the post–September 11, 2001, campaigns in Afghanistan, Iraq, and other theaters, respectively. A major aim of these "bills" was, and is, to provide education and training opportunities to affected personnel.

Original GI Bill

The World War II educational benefit consisted of payments by the government on behalf of a veteran pursuing a course of education or training, for books, tuition, and customary fees, not to exceed $500 for an ordinary school year. In addition, a subsistence allowance was paid directly to the veteran. The period of entitlement to education benefits was determined by the length of the veteran's World War II service, with a four-year maximum period of entitlement. With minor exceptions, this program ended July 25, 1956.

The education benefits made available to veterans of the Korean conflict, unlike the World War II program, did not permit payment to the educational institution for tuition, books, etc., but limited the benefit to the stipend paid directly to the veteran. The period of entitlement to educational benefits was determined by the length of the veteran's service in the Korean conflict, with the maximum period of entitlement generally being three years. For the purpose of this program, the "Korean conflict" was considered to have started June 27, 1950, and to have ended January 31, 1955, except that, for persons on active duty on January 31, 1955, the ending date was postponed until the date of such person's first discharge or release from active duty after January 31, 1955. Under any circumstances, however, payment of educational assistance based on service in the Korean conflict terminated January 31, 1965. About 2.4 million veterans were trained under this educational-benefit program.

Education benefits were first provided to dependents of veterans with the enactment of what was referred to as the "War Orphans' Educational Assistance Act of 1956." On September 2, 1958, Pub. L. No. 85-857 consolidated all of the laws administered by the Veterans Administration into one act. The consolidation of Title 38 of the U.S.C., "Veterans' Benefits," established Chapter 35, the "War Orphans' Educational Assistance Program." Pub. L. No. 85-857 extended monthly education benefits ($110 for full-time students) for a maximum of 36 months to the children 18 to 23 years of age of the veterans of World War I, World War II, and the Korean conflict who died as a result of service-connected activity. Pub. L. No. 85-857 also extended benefits to provide restorative training to overcome or lessen the effects of a physical or mental disability that interfered with educational attainment. Pub. L. No. 88-361 later extended education benefits of the program to children of living veterans rated permanently and totally disabled who sustained their disability as a result of service-connected activity.

The name of the program was changed to its current name, "Survivors' and Dependents' Educational Assistance Program (DEA)," on October 15, 1976, with the enactment of PL 94-502. This law increased the maximum entitlement from 36 to 45 months. The law also extended the period of eligibility for children from five to eight years.

The Veterans' Readjustment Benefits Act of 1966, as amended, Pub. L. No. 89-358, 80 Stat. 12 (1966), which added Chapter 34, Veterans' Educational Assistance, to Title 38, United States Code, is the basic "GI Bill" for veterans of the post-Korean Cold War and the period of hostilities in Southeast Asia. Under the Veterans' Readjustment Benefits Act of 1966, Pub. L. No. 89-358, *id*., an educational assistance allowance could be paid by the Veterans Administration[1] to (1) an other-than-dishonorably-discharged veteran who had served on active duty for more than 180 days any part of which occurred after January 31, 1955, and before January 1, 1977, or who, regardless of length of service, had been discharged or released from active duty between such dates for a service-connected disability or (2) an individual who had served more than 180 days during that period in an active-duty status for so long as the individual continued on active duty without a break therein.

The period of entitlement to educational benefits under this program was determined by the length of the veteran's active service during the post-Korean period and the period of Southeast Asia hostilities, with entitlement to assistance for one and one-half months (or the equivalent in part-time assistance) accruing for each month of active service after January 31, 1955. However, once a veteran had served a period of 18 months or more on active duty after January 31, 1955, and had been released from such service under conditions that would satisfy any active-duty obligation, the veteran was entitled to educational assistance for a period of 36 months. The Veterans' Education and Employment Assistance Act of 1976, Pub. L. No. 94-502, §203, 90 Stat. 2383, 2386 (1976), increased the 36-month limit to 45 months for all training.

As a general rule, an educational allowance could not be paid beyond a date 10 years after a veteran's last discharge or release from active duty after January 31, 1955. Qualifying educational institutions included approved public and private secondary schools, junior or senior colleges, and vocational, scientific, or correspondence schools. Additionally, an allowance could be paid for apprenticeship and other on-the-job training, cooperative and farm cooperative programs, and refresher or other deficiency, preparatory, or special-assistance courses. Monthly rates for educational assistance allowances varied depending on the type of training the recipient had chosen (institutional or cooperative), the amount of time the recipient spent on the program (full time, three-fourths time, or half-time), and the number of dependents the recipient had. Rates of assistance, as increased by the Veterans' Benefits Improvement Act of 1984, Pub. L. No. 98-543, §202(1), 98 Stat. 2735, 2741 (1984), were as follows:

Type of Program	**No Dependents**	**One Dependent**	**Two Dependents**	**Amount per Additional Dependent**
Institutional:				
Full-Time	$376	$448	$510	$32
3/4 Time	283	336	383	24
Half-Time	188	224	255	17
Cooperative:	304	355	404	23

[1] The Veterans Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, §2, 102 Stat. 2635 (1988). Pursuant to that act, from and after March 15, 1989, all references in any federal law, executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. See Department of Veterans Affairs Act, Pub. L. No. 100-527, *id*., §10, 102 Stat. 2640–2641; also see, 38 U.S.C.A. §301 note.

The allowance for an individual who pursued a program of education while on active duty was computed by reference to the charges for tuition and fees made by the institution to similarly circumstanced non-veterans enrolled in the same program, or $376 per month for a full-time course, whichever was the lesser. A person training less than half-time was paid at the rate of tuition and fees not to exceed the half-time rate. A veteran enrolled in a program of education exclusively by correspondence was paid an allowance computed at the rate of 55 percent of the charge the institution required of non-veterans for the course or courses. For full-time apprenticeship or other on-the-job training, a veteran was entitled to a training-assistance allowance the amount of which depended on how long the training lasted and the number of dependents the veteran had. This program terminated on December 31, 1989, having trained about 8.2 million veterans.

The Veterans' Education and Employment Assistance Act of 1976, Pub. L. No. 94-502, §404, 90 Stat. 2383 (1976), ended educational assistance under the Vietnam-era GI Bill for individuals entering military service on or after January 1, 1977. Instead, the new act provided for the so-called "Post-Vietnam Era Veterans' Educational Assistance Program" (VEAP), codified as Chapter 32, Title 38, United States Code, 38 U.S.C. §§3201–3243. As adopted, VEAP provided educational assistance to all members of the armed forces first entering military service on or after January 1, 1977 and before July 1, 1985, whereas the preexisting GI bill continued to apply to all personnel who first entered military service before that date. Although VEAP was in many respects similar to earlier veterans' educational-assistance programs, it differed in several important respects. Whereas earlier programs had been more or less automatic in their application, VEAP was voluntary and contributory, with contributions by a service member being a condition of entitlement.

The Department of Defense matched a service member's contributions on a $2 for $1 basis. The maximum educational benefit available under basic VEAP was $8,100—$2,700 of which was contributed by the service member. The service member's contribution could be made monthly, at rates varying from $25 to $100, or in a lump sum, but no matter how the contribution was made, it could not exceed $2,700 in the aggregate.

Under VEAP, a service member accrued benefits at the rate of one month of educational assistance for each month of contributions, up to a total of 36 months of benefits.[2] The amount of benefits depended on the total of the contributions made by the member. For a member who made the maximum contribution of $2,700 over a 36-month period,[3] the monthly VEAP benefit, payable over 36 months, was $225.[4] In contrast to earlier GI bill programs, the amount of the benefit does not vary with the number of a service member's dependents. Like earlier programs, however, benefits are payable to members on active duty.

The Veterans' Education and Employment Assistance Act of 1976, Pub. L. No. 94-502, *id.*, viewed veterans' educational-assistance benefits as serving a number of purposes. As expressly reflected in the language of the act itself, the program was established in part "to promote and assist the all-volunteer military program of the United States by attracting qualified men and women to serve in the Armed Forces," as well as to enable members and former members to obtain educations they otherwise might not have been able to afford.[5] The legislative history of the act makes clear, however, that cost saving was also important in the

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[2] For a member who made a lump-sum contribution, the number of months of benefits payable was computed by assuming the contribution was made in monthly installments of $100 each.

[3] See footnote 2, above.

[4] In addition to the basic VEAP program outlined above, the Department of Defense was authorized to make such additional contributions as "the Secretary deems necessary or appropriate to encourage persons to enter or remain in the Armed Forces….." This supplemental benefit program, sometimes called UltraVEAP or the Army College Fund, was available to service members enlisting in critical skills in the Army. Under regulations promulgated by the Department of Defense, the maximum benefit that could be accrued under this program was $20,100.

[5] 38 U.S.C. §3201.

adoption of VEAP. The Senate Committee on Veterans' Affairs, which considered the bill, expanded on these varied themes in its report:

> ... In an attempt to balance the legitimate concerns about budgetary expenditures with the many advantages our Nation receives from GI bill expenditures, the reported bill creates a new post-Vietnam era veterans' educational assistance program.... The new program will result in reduced future expenditures of GI bill moneys while, at the same time, helping assure a viable military force and continuing the important educational investments by our Nation in the youth of our country....
>
> It is apparent to the Committee that the Nation needs to provide some form of readjustment assistance for those who serve and those who will serve in the Armed Forces....
>
> The Committee believes that ... the benefits [made available under VEAP] will facilitate the transition from military to civilian life that each service person must ultimately make....
>
> Another important factor contributing to the Committee's determination to provide an alternative to the termination of the GI bill is its desire to continue to assist deserving young men and women in obtaining an education they might not otherwise be able to afford....Termination of the current GI bill, without providing a suitable alternative .... would impede the upward mobility of our Nation's minorities and disadvantaged....
>
> The Committee recognizes that the GI bill, although originally devised as a readjustment program, has been successfully utilized as a recruiting incentive....
>
> The Committee believes that terminating the GI bill, without providing an alternative postservice educational benefits program, would impair the military's ability to attract sufficient numbers of quality recruits....
>
> The Committee also recognizes that postservice educational benefits have been utilized by the Armed Forces to attract young men and women into the military. Educational opportunities are a major attraction for quality accessions...."[6]

Under an amendment to VEAP made by the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Pub. L. No. 99-576, §309(a)(2), 100 Stat. 3248, 3270 (1986), persons who first entered military service after June 30, 1985, are not eligible to participate in the program, although the program still applies to all persons who entered military service between January 1, 1977, and June 30, 1985. To receive benefits, a person must have made some contribution before April 1, 1987.

Educational Assistance Test Program

Expanding on Congress's frequently expressed concern about attracting and retaining "quality recruits" for the armed forces, the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, Title IX, §§901–906, 94 Stat. 1077, 1111–1117 (1980), established an educational assistance test program, partially codified at 10 U.S.C. §§2141–2149, in an effort to determine the effectiveness of offering educational benefits as incentives to recruitment of enlisted personnel. In essence, the test program consisted of three different elements—a tuition/stipend program, a loan-repayment program, and a noncontributory VEAP program—each of which is discussed below.

* THE TUITION/STIPEND PROGRAM. This offered tuition benefits and a living allowance (available only to those who took advantage of the program after separation from the service) in the maximum amount of $15,600. Such benefits were available only to members enlisting or reenlisting for service on active duty after September 30, 1980, and before October 1, 1981. In order to take advantage of such benefits, a member must have completed at least 24 months of the service obligation. At the first reenlistment point after

[6] S. Rep. No. 94-1243 (Committee on Veterans Affairs), at 60–72, accompanying S. 969, 94th Cong., 2d sess. (1976).

the enlistment that established the member's entitlement, a reenlisting member had the option of either cashing in remaining benefits at 60 percent of their value or transferring the full value thereof to dependents. If the benefits were not cashed in, a member retained the right to use or transfer them for 14 years after separation from the service.[7]

* THE LOAN-REPAYMENT PROGRAM. This program authorized the Department of Defense to repay Guaranteed Student Loans or National Direct Student Loans of certain members enlisting or reenlisting in the Selected Reserve of the Ready Reserve of an armed force or for service on active duty after September 30, 1980, and before October 1, 1981. A member must have successfully completed one year of service in a qualifying occupational specialty to be entitled to benefits. For members meeting the entitlement criteria, including those established by the Secretary of Defense, loans could be repaid at the rate of 33 1/3 percent or $1,500 of the outstanding principal, whichever was greater, for each year of qualifying service. The Department of Defense Authorization Act, 1982, Pub. L. No. 97-86, §406, 95 Stat. 1099, 1106–1107 (1981), adopted December 1, 1981, extended the qualifying date from October 1, 1981, to October 1, 1983.

* NONCONTRIBUTORY VEAP PROGRAM. This program essentially mirrored the normal VEAP program, described above, except that the Department of Defense paid the service member's contribution. Members eligible for this program included members enlisting or reenlisting in the armed forces after September 30, 1980, and before October 1, 1981, who elected to participate in VEAP and who met the selection criteria promulgated by the Secretary of Defense.

In keeping with Congress's expressed intention to test the effectiveness of educational benefits as recruitment and retention incentives for the armed forces, the Secretary of Defense is required to submit periodic reports on the "implementation and operation of the [test] educational assistance programs" established by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, Title IX, §§901–906, 94 Stat. 1077, 1111–1117 (1980).

Veterans who were eligible for Old GI Bill benefits (Title 38, United States Code, Chapter 34) as of December 31, 1989, and who served on continuous active duty for three years after June 30, 1985, also were eligible for educational benefits without having any reductions in their basic pay. To be eligible for benefits, such individuals must have served on active duty sometime between October 19, 1984, and July 1, 1985, and continued on active duty without a break through their qualifying period. The full-time rate for these veterans was $604.62 per month. In addition, certain veterans who had been involuntarily separated from active duty or who voluntarily separated from the service under special separation incentive programs were eligible for educational benefits.

Montgomery GI Bill

The Veterans' Educational Assistance Act of 1984, enacted as Title VII of the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, Title VII, §§701–709, 98 Stat. 2492, 2553–2572 (1984), established two new educational-assistance programs for military personnel and former military personnel. One of the programs, termed the "All-Volunteer Force Educational Assistance Program,"[8] was enacted as new Chapter 30 to Title 38, United States Code (Veterans' Benefits), and the other, termed "Educational Assistance for Members of the Selected Reserve,"[9] was enacted as an amendment to Chapter 106 of Title 10, United States Code (Armed Forces). As explicitly stated at 38 U.S.C. §3001 as enacted and codified by §702 (a)(1) of the 1985 Authorization Act, Pub. L. No. 98-525, *id*., §702(a)(1), 98 Stat. 2553–2554, and as amended by the New GI Bill Continuation Act, Pub. L. No. 100-48, §5, 101 Stat. 331, 331–32 (1987), the purposes of the All-Volunteer Force Educational Assistance Program were:

[7] This eligibility limit was extended from 10 years to 14 years by the National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat 2576 (2002).
[8] Later titled the Montgomery GI Bill—Active Duty.
[9] Later titled the Montgomery GI Bill—Selected Reserve.

(1) to provide a new educational-assistance program to assist in the readjustment of members of the armed forces to civilian life after their separation from military service;

(2) to extend the benefits of a higher education to qualifying men and women who might not otherwise be able to afford such an education;

(3) to provide for vocational readjustment and to restore lost educational opportunities to those service men and women who served on active duty after June 30, 1985;

(4) to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including The National Guard) to aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the armed forces;

(5) to give special emphasis to providing educational-assistance benefits to aid in the retention of personnel in the armed forces; and

(6) to enhance our Nation's competitiveness through the development of a more highly educated and productive work force.

The All-Volunteer Force Educational Assistance Program, as originally enacted, consisted of a number of integrated provisions. The basic benefit accrued at the rate of $300 per month for military personnel who either served on active duty for three years or who served on active duty for two years followed by four years in the Selected Reserve. Individuals who served on active duty for less than three years received $250 per month. In all cases, the benefits were payable for the equivalent of a maximum of 36 full-time months. New entrants were automatically covered unless they declined to participate.

Under amendments to the program enacted in the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §337(a), 105 Stat. 75, 90 (1991), as itself subsequently amended by the Veterans Reconciliation Act of 1993, enacted as Title XII of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §12009(a), 107 Stat. 312, 415 (1993), the Secretary of the Department of Veterans Affairs is authorized to make annual cost-of-living adjustments to the basic benefits to keep pace with inflation. The Veterans Education and Benefits Expansion Act for 2001, Pub. L. No. 107-103, 115 Stat. 976 (2001), prescribed that beginning in 2005 the Secretary make those yearly adjustments according to the yearly percentage changes in cost of living, as measured by the Consumer Price Index (CPI). The 2002 legislation prescribed specific dollar amounts for such increases to be made in the intervening years 2002 through 2004. As specified in the enactment of the program, allowances continued to fall into two categories: one for individuals with a three-year obligation and a lesser one for those with a two-year obligation. In 2004 the first category received $985 per month, and the second category received $800 per month. Those figures were the basis for computing the CPI-based annual cost-of-living adjustments to begin in 2005.

The Montgomery GI Bill—Active Duty, which was the active-duty phase of the All-Volunteer Force Educational Assistance Program, gave the Secretary of Defense discretion to increase the amount of the basic benefit by a prescribed amount for individuals in critical or difficult-to-recruit-for skills. In 1996 the basic amount of such an allowance was $400, with individuals who first become members of the armed forces after November 28, 1989, receiving $700. The National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 2029, eliminated the distinction in amounts based on date of entry into service, establishing a uniform allowance of $950 per month for individuals in this overall category.

Initially, the Montgomery GI Bill—Active Duty provided for benefits to be paid for attendance at institutions of higher learning as well as for pursuit of non-degree courses at institutions of higher learning. Subsequently, the active-duty program was amended by the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Pub. L. No. 99-576, §301(a), 100 Stat. 3248, 3267–3268 (1986), to authorize

payment of benefits for apprenticeship training, other on-job training, and correspondence study. The Veterans' Benefits and Program Improvement Act of 1988, Pub. L. No. 100-689, §108, 102 Stat. 4161, 4169–4170 (1988), further amended the active-duty program to authorize benefits for cooperative training. The Veterans Benefits Amendments Act of 1989, Pub. L. No. 101-237, §422, 103 Stat. 2062, 2088–2090 (1989), authorized benefits for flight training during the period October 1, 1990, through September 30, 1994.

As originally enacted, the Montgomery GI Bill—Active Duty applied to persons who first became members of the armed forces or who first entered on active duty on or after July 1, 1985, but before July 1, 1988. During this period, personnel eligible for the new program were prohibited from the participating in VEAP. Experience with the Montgomery GI Bill—Active Duty generally proved favorable, and the authority was made permanent by the New GI Bill Continuation Act, Pub. L. No. 100-48, §3, 101 Stat. 331 (1987).

In addition to establishing the All-Volunteer Force Educational Assistance Program, the Veterans' Educational Assistance Act of 1984 also established an experimental benefit specifically tailored for members of the Selected Reserve, including the National Guard. Under this program, later called the Montgomery GI Bill—Selected Reserve, which was adopted as an amendment to Chapter 106 of Title 10, United States Code, 10 U.S.C. §§2131–2138, members of the Selected Reserve received an entitlement of $140 per month for up 36 months of benefits for full-time institutional training. Lesser amounts were authorized for less than full-time training. To qualify, an individual was required to enlist, reenlist, or extend an existing enlistment for a six-year period in the Selected Reserve. The program was limited to high school graduates or persons who had received equivalency certificates by the completion of the required period of initial active duty for training.

Like the Montgomery GI Bill—Active Duty, the program for members of the Selected Reserve originally applied during the period of July 1, 1985, to June 30, 1988, but it too was extended and made permanent by the New GI Bill Continuation Act. Under amendments to the program enacted in the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §337(b), 105 Stat. 75, 90 (1991), the Secretary of the Department of Veterans Affairs was authorized to make annual cost-of-living adjustments, based on changes in the CPI, to the basic benefit to keep pace with inflation. For fiscal year 2004, such adjustments had brought the full-time educational benefit under the Montgomery GI Bill—Selected Reserve to $282 per month.

Like the Montgomery GI Bill—Active Duty, the Montgomery GI Bill—Selected Reserve initially provided for benefits to be paid for attendance at institutions of higher learning as well as for pursuit of non-degree courses at institutions of higher learning. Subsequently, the Selected Reserve program was amended by the Veterans Benefits Amendments Act of 1989, Pub. L. No. 101-237, 103 Stat. 2062 (1989), to authorize payment of benefits for apprenticeship training, other on-job training, correspondence study, and cooperative training to reserves who enlisted, reenlisted, or extended an enlistment by six years after September 30, 1990. The Veterans Benefits Amendments Act of 1989, Pub. L. No. 101-237, *id.*, §422(b), 103 Stat. 2089–2090, also authorized flight training benefits during the period October 1, 1990, through September 30, 1994, for reserves who enlisted, reenlisted, or extended an enlistment by six years after September 30, 1990.

The Supplemental Appropriations Act, 2008 amends Section 3020 of Title 38 of the U.S. Code to authorize the transfer of unused Montgomery GI Bill benefits to a dependent. The Act allows a member serving on active duty, in the Selected Reserve, or the regular reserve who is entitled to Montgomery GI Bill educational assistance, has completed at least six years of service in the Armed Forces and agrees to serve at least four more years, to transfer to family members up to 36 months of unused entitlement.[10]

Reserve Educational Assistance Program (REAP)

In October 2004 the Reserve Educational Assistance Program (REAP) was established under the National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004) (codified as 10 U.S.C. Chapter 1607 §§16161–16167). REAP provides educational benefits for members of

[10] Supplemental Appropriations Act, 2008, Pub.L.No. 110-252, Title V, Sec. 5006 (a), 122 Stat. 2323, 2380 (2008).

the Selected Reserves, Individual Ready Reserve (IRR), and National Guard who are called or ordered to active duty in response to a war or national emergency as declared by the President or Congress.

In general, an individual called to active duty who serves for at least 90 consecutive days on or after September 11, 2001, is eligible for REAP. The REAP benefit amount is based on a percentage of the Montgomery GI Bill—Active Duty benefit amount and is indexed to the duration of service. Members who serve at least 90 days, but less than one year, receive 40 percent of the full MGIB-AD rate; those who serve more than one year, but less than 2 years, receive 60 percent of the full MGIB-AD; and those who serve two or more years continuously receive 80 percent of the full MGIB-AD rate. REAP benefits may be used to pay for education programs with the exception of reimbursement for examinations and testing. REAP benefits are potentially payable from December 9, 2001. A maximum of 36 months of REAP benefits are available; and benefits must be used within 10 years.

The National Defense Authorization Act for Fiscal Year 2008 amends Chapter 1607 of Title 10 of the U.S. Code to create a new Section 16162a authorizing payment on an accelerated basis of educational assistance for reserve component members supporting contingency operations or other operations. Members are required to be (1) enrolled in an approved program of education not exceeding two years and not leading to an associate, bachelor, masters, or other degree; and (2) charged tuition and fees that exceed 200 percent of the monthly rate of educational assistance allowance otherwise payable for members of the Selected Reserve. The Act sets the authorized amount of such assistance at the lesser of: (1) 60% of the established charges for that program of education; or (2) the aggregate amount of educational assistance to which the person remains entitled. The Act also requires the accelerated payments to be charged against any remaining educational assistance of such members.[11] The Act amends Section 16162 of Title 10 to provide educational assistance to reserve component members who either perform two continuous years or more of service; or an aggregate of three years or more of service. Eligible service members may contribute monthly in multiples of $20, up to a total of $600, in order to receive an increased amount of educational assistance.[12]

The Supplemental Appropriations Act for 2008 amends Chapter 1607 of Title 10 of the U.S. Code to create a new Section 16163a providing authority to transfer reserve educational assistance program benefits to family members. Eligible members will have completed at least six years of service in the armed forces, and agree to at least four more years of service. A maximum of 36 months of entitlement may be transferred to the member's spouse and/or one or more of the member's children.[13]

The National Defense Authorization Act for Fiscal Year 2008 amends 10 U.S. C. 16164 to authorize a person who separates from the Selected Reserve after completion of active service in support of contingency and certain other operations under other than dishonorable conditions up to ten years after such separation to utilize their authorized educational assistance entitlement. A person who then reenters the Selected Reserve may use their entitlement for up to ten years following the subsequent separation.[14]

The National Defense Authorization Act for Fiscal Year 2006 amends 10 U.S.C. 16165 to require the Secretary of Veterans Affairs to prescribe the form and manner under which a person entitled to educational assistance for reserves supporting contingency and other operations and also entitled to other educational assistance shall elect which benefits he or she shall receive. The Act authorizes the continuation of educational

[11] National Defense Authorization Act for Fiscal Year 2008, Pub.L.No. 110-181, Title V, Subtitle C, Sec. 528 (b), 122 Stat. 3, 107 (2008).
[12] National Defense Authorization Act for Fiscal Year 2008, Pub.L.No. 110-181, Title V, Subtitle C, Sec. 528 (c), 122 Stat. 3, 109 (2008).
[13] Supplemental Appropriations Act, 2008, Pub.L.No. 110-252, Title V, Sec. 5006 (c), 122 Stat. 2323, 2383 (2008).
[14] National Defense Authorization Act for Fiscal Year 2008, Pub.L.No. 110-181, Title V, Subtitle C, Sec. 530, 122 Stat. 3, 110 (2008).

assistance to a member of the Selected Reserve who incurs a break in service of not more than 90 days if the member continues to serve in the Ready Reserve during and after the service break.[15]

The National Defense Authorization Act for Fiscal Year 2016 amends 10 U.S.C. Chapter 1607 to add a new section 16167 which provides that the authority to provide educational assistance under this chapter shall terminate four years after the date of enactment of the NDAA 16 — November 2019.[16]

Post 9/11 GI Bill

On June 30, 2008, the Post 9/11 Veterans' Educational Assistance Act of 2008 was enacted as Title V of the Supplemental Appropriations Act of 2008.[17] Also known as the Post 9/11 GI Bill, the new GI Bill contains the most comprehensive education benefits package since the original GI Bill was signed into law in 1944. The Post 9/11 GI Bill reflects Congress' recognition of the especially arduous nature of active-duty service since September 11, 2001, and seeks to enhance the appeal of voluntary military service during wartime.

In the introductory section of the new GI Bill, Congress issued the following findings justifying the need for a new veterans' educational benefit in the post-September 11 era:

> (1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.
>
> (2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.
>
> (3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many `G.I. Bills' enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.
>
> (4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.
>
> (5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.
>
> (6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

The Post 9/11 GI Bill, which went into effect on August 1, 2009, "was designed to provide financially comprehensive educational benefits to members of the Armed Forces for service on active duty after September 10, 2001, while meeting military recruiting and retention goals."[18] Benefits are based on length of service as detailed below.

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[15] National Defense Authorization Act for Fiscal Year 2006, Pub.L.No. 109-163, Title V, Subtitle C, Sec. 540, 119 Stat. 3136, 3251 (2006).

[16] National Defense Authorization Act for Fiscal Year 2016, Pub.L.No. 114-92, Div.A, Title V, Sec. 555 (a), 129 Stat. 726, 824 (2015).

[17] Post-9/11 Veterans Educational Assistance Act of 2008, Pub. L. No. 110-252, Title V, 122 Stat. 2323 (2008).

[18] Cassandria Dortch, "The Post-9/11 Veterans Educational Assistance Improvements Act of 2010, As Enacted," Congressional Research Service Report for Congress R41620, 1 (August 17, 2011).

Aggregate Time Served on Active Duty Since 9/11/2011	Percentage of Maximum Benefit Payable
36 or more total months	100
30 or more consecutive days with disability-related discharge	100
30 total months	90
24 total months	80
18 total months	70
12 total months	60
Six total months	50
90 or more days	40

Source: Shannon S. Loane, "A Brief Overview of the Post-9/11 Veterans Educational Assistance Act of 2008," Congressional Research Service Report for Congress RS22929, 2 (July 28, 2008).

In addition to establishing eligibility for, and the amount of, educational assistance, the law stipulates educational requirements and types of assistance, authorizes the transfer to family members of unused educational assistance, and establishes a program of public–private contributions for additional educational assistance (Yellow Ribbon GI Education Enhancement Program). The specific provisions are outlined in the following chart prepared by the Congressional Research Service.

Post-9/11 Veterans Educational Program Benefit Amounts

Benefit	Amount
Tuition and Fees[a]	An individual is entitled to 36 months of tuition and fees (limited to the amount of undergraduate tuition charged at the most expensive public institution of higher education (IHE) in the state in which the servicemember or veteran is enrolled).
Housing Allowance[a]	An individual is entitled to a monthly housing stipend amount equal to the monthly basic allowance for housing (BAH) for a member with dependents in pay grade E-5 in the military housing area in which the IHE is located.
Books and Supplies[b]	An individual is entitled to a $1,000 annual stipend for books and required educational expenses.
Tutoring	An individual is entitled to payment, not to exceed $100 per month or an annual maximum of $1,200, for tutorial assistance, provided it is certified the individual needs tutoring to pass a course required for the approved program of education.
Testing and Certification	An individual is entitled to payment, not to exceed the lesser of the test fee or $2,000, for one licensing or certification test.
Relocation or Travel Assistance	An individual who resides in a rural county and who has to relocate a distance of at least 500 miles, or must travel by air to attend an IHE, is entitled to a single payment of up to $500.
Yellow Ribbon	In cases where an IHE's tuition and fees are not covered by the tuition and fees payment benefit, the government may provide up to 50% of the remaining tuition and fees costs if the IHE voluntarily agrees to match an equal percentage.
Transferability	The program allows the Secretary of Defense to authorize the branches to permit service-members who have served at least six years and who agree to serve at least four more years to transfer between 18 and 36 months of educational benefits to a spouse and/or child(ren).

a. Great variation from state to state in tuition and fees is possible.
b. Individuals on active duty are not eligible for the books and supplies stipend.

On January 4, 2011 Congress enacted the Post-9/11 Veterans Educational Assistance Improvements Act of 2010, amending the Post-9/11 GI Bill programs to expand eligibility and to improve the bill's implementation, administration and benefits.[19] The following table, based upon one prepared by the Congressional Research Service, compares and contrasts major elements of the Post-9/11 GI Bill and the 2011 amendments.

Post-9/11 GI Bill: Summary of Key Changes Made by the Post-9/11 Veterans Educational Assistance Improvements Act of 2010 (P.L. 111-377)

Provision Prior to Improvements Act	US Code Citation	Improvements Act Amendments
Eligible Individuals		
Only a call or order to active duty under certain sections of Title 10 U.S.C. may be included in the active duty service eligibility period required of National Guard members.	38 U.S.C. 3301	Certain full-time duty under Title 32 U.S.C. may also be included in the active duty service eligibility period required of National Guard members.
The active duty service period excludes active duty service periods required to meet an obligation for attendance at the Army, Navy, and Air Force service academies.	38 U.S.C. 3311	The active duty service period also excludes active duty service periods required to meet an obligation for attendance at the U.S. Coast Guard Academy (USCGA).
Eligible Programs of Education, Institutions, and Establishments		
Only courses offered by an institution of higher learning (IHL) may be approved programs of education.	38 U.S.C. 3313	On-the-job and apprenticeship, flight, and correspondence training and certificate and non-college degree programs may also be approved programs of education.
Benefit Payments—Tuition and Fees		
Individuals who are enrolled more than half-time at an IHL and who are not on active duty are eligible for tuition and fees payments up to the maximum amount of undergraduate in-state tuition and fees charged at the most expensive public institution in the state in which the individual is enrolled.	38 U.S.C. 3313	Degree-seeking individuals who are enrolled more than half-time and who are not on active duty are eligible for a tuition and fees up to • At a public IHL, in-state tuition and fees less certain waivers, reductions, scholarships, and assistance; • At a private or foreign IHL, up to $17,500;[a]or • At a private or foreign IHL for certain prior enrollees through July 31, 2014, the greater of $17,5000 or the benefit as calculated in 2010–11.[b]

[19] Post-9/11 Veterans Educational Assistance Improvements Act of 2010, Pub. L. No. 111-377, 124 Stat. 4106 (2011).

Individuals on active duty may receive the amount of tuition and fees charged by the public, private, or foreign IHL, but the amount cannot duplicate any amounts received through a DOD Tuition Assistance Program.	38 U.S.C. 3313	Degree-seeking individuals on active duty who are enrolled more than half-time may receive the lesser of • At a public IHL, up to in-state tuition and fees less certain waivers, reductions, scholarships, and assistance; • At a private or foreign IHL, up to $17,500;[a] or • The amount not covered by the DOD Tuition Assistance Program.
Individuals in flight training not offered at an IHL are not eligible for Post-9/11 GI Bill benefits.	38 U.S.C. 3313	Individuals in flight training enrolled more than half-time may receive a tuition and fees benefit of up to $10,000.[a]
Individuals in correspondence training are not eligible for Post-9/11 GI Bill benefits.	38 U.S.C. 3313	Individuals in correspondence training enrolled more than half-time may receive a tuition and fees benefit of up to $8,500.[a]
Individuals at an institution or establishment other than an IHL are not eligible for Post-9/11 GI Bill benefits.	38 U.S.C. 3313	Individuals who are enrolled more than half-time in pursuit of a certificate or non-college degree at an institution or establishment other than an IHL may receive a tuition and fees benefit of up to $17,500.[a]
Benefit Payments—Housing Allowance		
Individuals enrolled more than half-time at an IHL who are not on active duty may receive a monthly housing allowance up to the E-5 with dependents BAH where the IHL is located.	38 U.S.C. 3313	Degree-seeking individuals not on active duty enrolled more than half-time at an IHL may receive a monthly housing allowance up to the E-5 with dependents BAH where the IHL is located, reduced according to the enrollment rate.
Individuals not on active duty in a program offered exclusively through distance learning by an IHL are not eligible for the Post-9/11 GI Bill housing allowance.	38 U.S.C. 3313	Degree-seeking individuals not on active duty enrolled more than half-time in a program offered exclusively through distance learning may receive a monthly housing allowance of up to 50% of the E-5 with dependents BAH where the IHL is located, reduced according to the enrollment rate.
Individuals in on-the-job and apprenticeship training are not eligible for Post-9/11 GI Bill benefits.	38 U.S.C. 3313	Individuals pursuing on-the-job and apprenticeship training more than half-time may receive a monthly housing allowance up to the E-5 with dependents BAH where the employer is located, reduced according to the months in training and rate of pursuit.
Individuals at an institution or establishment other than an IHL are not eligible for Post-9/11 GI Bill benefits.	38 U.S.C. 3313	Individuals enrolled more than half-time in pursuit of a certificate or non-college degree at an institution or establishment other than an IHL may receive a housing allowance of up to the E-5 with dependents BAH where the institution is located, reduced according to the enrollment rate.

Benefit Payments—Books and Supplies Stipend		
Individuals enrolled at an IHL who are on active duty are not eligible for the Post-9/11 GI Bill books and supplies stipend.	38 U.S.C. 3313	Degree-seeking individuals on active duty who are enrolled more than half-time may receive a books and supplies stipend of up to $1,000 over the academic year.
Individuals in on-the-job and apprenticeship training are not eligible for Post-9/11 GI Bill benefits.	38 U.S.C. 3313	Individuals pursuing on-the-job and apprenticeship training more than half-time may receive a books and supplies stipend of up to $83 per month.
Individuals at an institution or establishment other than an IHL are not eligible for Post-9/11 GI Bill benefits.	38 U.S.C. 3313	Individuals enrolled more than half-time in pursuit of a certificate or non-college degree at an institution or establishment other than an IHL may receive a books and supplies stipend of up to $83 per month.
Benefit Payments—Licensure and Certification Tests		
A fee of up to $2,000 for one approved licensing or certification test may be paid to an individual and is not charged against entitlement.	38 U.S.C. 3315	A fee of up to $2,000 for each approved licensing or certification test may be paid to an individual, but it is charged against entitlement.
Benefit Payments—National Tests		
National tests for admissions to an IHL or for course credit at an IHL are not eligible for Post-9/11 GI Bill benefits.	NA	A national test for admissions to an IHL and a national test for course credit at an IHL may be reimbursed and charged against entitlement.
Transferability to Dependents		
Commissioned officers of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA) are not eligible to transfer Post-9/11 GI Bill benefits to dependents.	38 U.S.C. 3319	Commissioned officers of the Public Health Service (PHS) and National Oceanic and Atmospheric Administration (NOAA) may be eligible to transfer Post-9/11 GI Bill benefits to dependents.

a. This is the maximum for the academic year beginning August 1, 2011. The amount increases annually thereafter according to the average increase in undergraduate tuition in the United States as determined by the U.S. Department of Education.

b. The Restoring GI Bill Fairness Act (P.L. 112-26) allows certain individuals through July 31, 2014, to receive a tuition and fees benefit equal to the greater of $17,500, reduced according to the length of time served on active duty, or the amount the individual would have been entitled in AY2010–11 before the Improvements Act became effective. To be eligible, the individual must have been enrolled in the same private or foreign IHL since January 4, 2011, in a state in which the Post-9/11 GI Bill maximum in-state tuition per credit hour exceeded $700 in AY2010–11 and the combined amount of tuition and fees for full-time attendance in the program of education in FY2010–11 exceeded $17,500.

Chapter V.B.3. Home Loan Assistance (GI Bill)

Legislative Authority: Chapter 37, Title 38, United States Code (38 U.S.C. §§3701–3736).

Purpose: To assist veterans and their families in obtaining and financing adequate housing by providing loan guarantees as an equivalent to down payments and ensuring that guaranteed loans are made available at reasonable rates of interest.

Background: Over the years, Congress has enacted a series of laws—popularly known as "GI Bills"—covering veterans of World War II, the Korean conflict, the post-Korean period, the period of Southeast Asia hostilities, and the Persian Gulf conflict to assist the speedy and successful reintegration of returning veterans, particularly draftees, into civilian life. One of the more important programs of the GI Bills is the VA Loan Guaranty Program administered by the Department of Veterans Affairs.[1]

The VA Loan Guaranty Program was first established as the "Housing Assistance Program" by the Servicemen's Readjustment Act of 1944 (GI Bill), ch. 268, Pub. L. No. 78-346, Title III, §§500–503, 58 Stat. 284, 291–93 (1944). It authorized loan guarantees for the purchase and construction of homes, farms, and business property to be made to any member of the armed forces discharged or released from federal military service (i) under conditions other than dishonorable either after completion of 90 or more days of active service following September 15, 1940, or (ii) as a result of injury or disability incurred in line of duty. Although the benefits provided by the original act have been modified, expanded, and liberalized over the ensuing years, the basic structure of the program has remained essentially unchanged.

Under the Home Loan Assistance Program, World War II benefits were made available to former members of the armed forces with qualifying service between September 16, 1940, and July 25, 1947; Korean conflict benefits were made available for service between June 27, 1950, and January 31, 1955, inclusive; Vietnam benefits for service between August 5, 1964, and May 7, 1975, inclusive; and Persian Gulf benefits for service "on active duty for 90 days or more at any time during the Persian Gulf War."[2] Entitlement to VA home-loan benefits does not expire until used.

The Veterans' Housing Act of 1970, Pub. L. No. 91-506, 84 Stat. 1108 (1970), extended eligibility to persons who served for more than 180 days in an active-duty status any part of which occurred after January 31, 1955, and to persons who served more than 180 days in an active-duty status without a break in service. Subsequent legislation established eligibility for veterans of other peacetime periods, including service between World War II and the Korean conflict, between the Korean conflict and the Vietnam era, and the post-Vietnam period.

In summary, veterans of wartime periods[3] must have served a minimum of 90 days of active duty to qualify, and peacetime veterans must have served more than 180 days. However, individuals separated

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[1] The Veterans Administration was redesignated as the Department of Veterans Affairs by the Department of Veterans Affairs Act, Pub. L. No. 100-527, §2, 102 Stat. 2635 (1988). Pursuant to that act, from and after March 15, 1989, all references in any federal law, executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Veterans Administration is statutorily deemed to refer to the Department of Veterans Affairs. Department of Veterans Affairs Act, Pub. L. No. 100-527, *id*., §10, 102 Stat. 2640–2641; also see, 38 U.S.C.A. §301 note.

[2] Persian Gulf War eligibility was established by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §341, 105 Stat. 75, 92 (1991). The term "Persian Gulf War" is defined at 38 U.S.C. §101(33), as added by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, *id*., §332(2), 105 Stat. 88, as "the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law."

[3] For this purpose, "wartime periods" include World War II, the Korean conflict, the Vietnam era, and the Persian Gulf War.

from enlisted service that began after September 7, 1980, or from officer service that began after October 16, 1981, must in most cases have served two years to be eligible.[4]

Qualified veterans, active-duty members, surviving spouses, and selected reservists may use a Department of Veterans Affairs loan guaranty to purchase a home. Eligible borrowers may also use a VA-guaranteed loan to finance home construction and the installation of energy-efficient home improvements, or to refinance a mortgage. Under the loan-guaranty program, eligible borrowers are entitled to a federal guaranty ranging from 50 to 25 percent of the face value of a loan for home loans up to $417,000. For home loans exceeding $417,000, the maximum allowable guaranty is 25 percent of the locality-based "VA limit" applicable to the county where the property is located. The loan-guaranty program does not impose a limit on the amount that an eligible participant may borrow using a VA-guaranteed loan. However, the Department of Veterans Affairs uses a locality-based formula to calculate its maximum guaranty amount for borrowers, depending on their U.S. county of residence. This formula is adjusted annually as stipulated by law.

The Veterans Benefits Improvement Act of 2004, Pub. L. No. 108-454, 118 Stat. 3598 (2004), brought about significant changes in the VA loan-guaranty program. Prior to the 2004 act, the maximum loan guaranty was capped at $60,000 for home loans of more than $144,000. The 2004 act replaced the $60,000 maximum with an indexed amount equal to 25 percent of the Freddie Mac conforming-loan limit under the Federal Home Loan Mortgage Corporation Act, Pub. L. No. 91-351, 84 Stat. 450, for a single-family residence, as adjusted for the year involved.[5]

The Veterans' Benefits Improvement Act of 2008, Pub. L. No. 110-389, 122 Stat. 4145 (2008), extended certain loan-guaranty authorities and provided a temporary increase in the maximum guaranty for loans where the principal loan amount exceeds $417,000. Section 501 of the 2008 act provided a temporary increase in the maximum guaranty for loans closed January 1, 2009, through December 31, 2011. Section 504 raised the maximum guaranty for a regular refinancing loan from 90 to 100 percent of the appraised value of a home. Section 505 extended the authority to guaranty adjustable-rate mortgages (ARMS) and hybrid adjustable-rate mortgages (HARMS) through September 30, 2012.[6] The Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012 made permanent the authority to guaranty both ARMS and HARMS loans.[7]

Additionally, the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012 made multiple amendments to home loan assistance available to veterans. Section 206 of this law authorizes the VA to guarantee home loans for the surviving spouses of veterans who were eligible for dependency and indemnity compensation because of total disability or who were former prisoners of war and were totally disabled for at least one year preceding death. Previously, surviving spouses only qualified for a loan guaranty if the veteran died from service-connected disabilities, not if they died while receiving compensation for the service-connected disability.[8] Section 207 amends the occupancy requirement to be satisfied if a dependent child occupies the property while a veteran is unable to occupy the home because

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[4] Until 1980, the Veterans Administration, now the Department of Veterans Affairs (see footnote 1 to this chapter, above), also had authority to provide direct government loans in areas where private capital was not readily available. Funding for the Direct Loan Program was discontinued in September 1980.

[5] "New Law Allows Higher Limits in VA Home Loan Program," Veterans Benefits Administration, press release, January 13, 2005, http://www1.va.gov/opa/pressrel/pressrelease.cfm?id=934.

[6] "Implementation of Loan Guaranty Provisions of Public Law 110-389," Veterans Benefits Administration, Circular 26-08-19, October 16, 2008, 1, http://www.benefits.va.gov/homeloans/docs/26_08_19.pdf.

[7] Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, Pub. L. No. 112-154, Title II, Sec. 208, 126 Stat. 1165, 1179 (2012).

[8] Pub. L. No. 112-154, Sec. 206, 126 Stat. 1165, 1178 (2012); Libby Perl, "VA Housing: Guaranteed Loans, Direct Loans, and Specially Adapted Housing Grants," CRS Report for Congress, July 14, 2006, p.2-3.

of active-duty status.[9] Section 701 extends post-disaster grants to veterans whose homes were previously adapted using specially adapted housing grants to accommodate a service-related disability.

From 1962 until 1990, the VA home loan guaranty program was funded by the VA Loan Guaranty Revolving Fund (LGRF). The LGRF was authorized to fund all operations of the loan-guaranty program except administrative costs. The LGRF was never designed to be self-supporting. It was developed as a convenient means of paying the costs of the loan-guaranty program and receiving program collections. The LGRF had been operating at a deficit since 1981 and had operated at a surplus in only six years since its inception. Prior to 1984, deficits in the LGRF were funded by transfers of unobligated balances from the VA Direct Loan Revolving Fund, so the loan-guaranty program was able to operate without appropriations from Congress (except for administrative expenses). For a variety of reasons, in the 1980s those balances were no longer available at the level needed to fund the deficits in the LGRF. Since 1984, deficits in the LGRF have been funded primarily by appropriations from Congress. Since 1982, user fees paid by borrowers have also been used to help fund the program. The Veterans Benefits Amendments Act of 1989, Pub. L. No. 101-237, 103 Stat. 2062 (1989), made major changes in the home-loan guaranty program. Among the changes, a new revolving fund, the Guaranty and Indemnity Fund (GIF), was established in the Treasury to fund the program for all new loans.[10]

A brief description of the principal features of the loan guaranty program administered by the Department of Veterans Affairs follows:

Principal Features of Department of Veterans Affairs Loan Guaranty Program

The principal objective of the loan-guaranty program is to help eligible veterans, active-duty personnel, surviving spouses, and selected reservists purchase and retain homes in recognition of their service to the nation. The program operates by substituting the federal government's guaranty for a down payment that might otherwise be required when a borrower purchases a home.

The program provides a loan guarantee by the United States in the amount of 50 percent of the loan if the loan amount is less than $45,000; a flat rate of $22,500 for loans of $45,001 to $56,250; for loans of $56,251 to $144,000, 40 percent of the loan or $36,000, whichever is smaller; for home loans between $144,001 and $417,000, 25 percent of the principal loan amount; and, for loans greater than $417,000, the lesser of 25 percent of the loan amount or the VA county loan-guarantee limit. The program also provides a minimum guaranty of 25 percent on all Interest Rate Reduction Refinancing Loans (IRRRLs) (see table below).

General VA Loan Guaranty Program Limits[11]

Loan Amount	Maximum Potential Guaranty	Special Provisions
Up to $45,000	50 percent of the loan amount.	Minimum guaranty of 25 percent on IRRRLs.
$45,001 to $56,250	$22,500	Minimum guaranty of 25 percent on IRRRLs.
$56,251 to $144,000	40 percent of the loan amount, with a maximum of $36,000.	Minimum guaranty of 25 percent on IRRRLs.

[9] Pub. L. No. 112-154, Sec. 206, 126 Stat. 1165, 1179 (2012).
[10] Bruce E. Foote, *VA-Home Loan Guaranty Program: An Overview* (Washington, DC: Congressional Research Service, February 21, 2002), 3.
[11] VA Pamphlet 26-7, Chapter 3, Topic 4. Maximum limits may be higher for some counties. https://www.benefits.va.gov/homeloans/purchaseco_loan_limits.asp.

$144,001 to $417,000	25 percent of the loan amount	Minimum guaranty of 25 percent on IRRRLs.
Greater than $417,000	The lesser of: • 25 percent of the VA county loan limit, or • 25 percent of the loan amount	Minimum guaranty of 25 percent on IRRRLs

Source: Department of Veterans Affairs.

These amounts are available to (1) purchase or construct a dwelling to be owned and occupied by the veteran as a home; (2) purchase a farm on which there is a farm dwelling to be owned and occupied by the veteran as a home; (3) construct on owned land a farm residence to be owned and occupied by the veteran as a home; (4) repair, alter, or improve a farm residence or other owned dwelling occupied by the veteran as a home; (5) refinance existing mortgage loans that are secured of record on a dwelling or farm residence owned and occupied by the veteran as his or her home; (6) purchase a one-family residential unit in an approved condominium housing development or project; (7) improve a home through energy-efficiency improvements; (8) refinance to a lower interest rate the outstanding balance on an existing loan guaranteed, insured, or otherwise made under the VA loan-guarantee program; (9) purchase a manufactured home to go on a lot owned by the veteran or purchase a manufactured home and lot on which it will be placed, or refinance existing loans relating to the same type of transaction; or (10) purchase a home to be occupied by a veteran and make energy-efficiency improvements.

The program also provides a loan guarantee by the United States for the purchase of a mobile home or mobile home lot in an amount not to exceed 40 percent of the loan or $20,000, whichever is less.

Participation: The number of loans guaranteed for all veterans, active-duty members, un-remarried survivors, and spouses of POWs from FY 2001 through FY 2015 are shown below:

Fiscal Year	Total Loans Guaranteed
2001	250,009
2002	317,251
2003	489,418
2004	335,788
2005	165,854
2006	142,708
2007	133,313
2008	179,670
2009	325,690
2010	314.011
2011	357,594
2012	539,886
2013	629,312
2014	438,398
2015	631,142

Source: Department of Veterans Affairs. Veterans Benefits Administration, *Annual Benefits Report Fiscal Year 2005* (Washington, DC: September 2006), 79, www.benefits.va.gov/REPORTS/abr/historical/2005_abr.pdf; Department of Veterans Affairs. Veterans Benefits Administration, *Annual Benefits Report Fiscal Year 2010* (Washington, DC: 2011), 59, www.benefits.va.gov/REPORTS/abr/2010_abr.pdf; and Department of Veterans Affairs, "Loan Guaranty" (Washington, DC: 2016), 7, www.benefits.va.gov/REPORTS/abr/ABR-LoanGuaranty-FY15-01272016.pdf.

Chapter V.B.4
Homeowners Assistance Program (HAP)

Legislative Authority: Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. No. 89-754, §1013, 80 Stat. 1255, 1290–1292 (1966), as amended, classified to 42 U.S.C. §3374.

Purpose: The Homeowners Assistance Program (HAP) is designed to assist eligible military and federal civilian employee homeowners to help offset real-estate losses suffered by such individuals as a result of the closure of Department of Defense or Coast Guard bases or installations or other reduction actions.

Background: Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. No. 89-754, §1013, 80 Stat. 1255, 1290–1292 (1966), as amended, authorized the Secretary of Defense to provide assistance to eligible military or civilian employee homeowners by payment of partial compensation for losses sustained in the private sale of a dwelling, by payment of the costs of judicial foreclosure, or by purchasing of a dwelling by the government. Such assistance is available to certain military personnel and civilian employees who are the owners and occupants of one- or two-family dwellings located at or near Department of Defense or Coast Guard installations ordered to be closed in whole or in part after November 1, 1964, including reductions in the scope of operations at such installations occurring after October 28, 1969. As a condition of personal eligibility for benefits under the homeowners assistance program, the Secretary of Defense must find that the service or employment of the employee in question has been or will be terminated as the result of the closure or reduction action, and that as a result of the actual or pending closure or reduction action there is no present market for the sale of such dwellings upon reasonable terms and conditions.

The Military Construction Authorization Act, 1971, Pub. L. No. 91-511, §612, 84 Stat. 1204, 1225 (1970), amended the Demonstration Cities and Metropolitan Development Act, Pub. L. No. 89-754, *id*., effective October 28, 1969, to provide that consideration may be given to the cumulative effect on the local real-estate market of all closure or reduction actions in the same area. The Military Construction Authorization Act, 1973, Pub. L. No. 92-545, §601, 86 Stat. 1135, 1150–1151 (1972), also amended the Demonstration Cities and Metropolitan Development Act, effective November 30, 1970, to authorize assistance to personnel at overseas bases who previously were not eligible because they were not assigned to a unit involved in the closure or reduction action or because they owned on-base housing. The Military Construction Authorization Act, 1974, Pub. L. No. 93-166, §513(b), 87 Stat. 661, 679 (1973), approved November 29, 1973, further amended the Demonstration Cities and Metropolitan Development Act, as to closures announced after April 1, 1973, to authorize assistance to certain military and civilian personnel who were previously not eligible because they were involved in routine transfers not connected with the closure action. Most recently, the Coast Guard Authorization Act of 1988, Pub. L. No. 100-448, §11(2), 102 Stat. 1836, 1842–1843 (1988), amended the Demonstration Cities and Metropolitan Development Act to include closures of Coast Guard bases and installations within the scope of protection offered by the Homeowners Assistance Program.[1]

The American Recovery and Reinvestment Act of 2009 amended the Demonstration Cities and Metropolitan Development Act of 1966 to allow, under the Homeowners Assistance Program under such Act, the Secretary of Defense (Secretary) to provide assistance or reimbursement for certain losses in the sale of family dwellings by members of the Armed Forces (members) living on or near a military installation

[1] See, e.g., H.R. Rep. No. 100-855 (Committee of Conference), at 19, accompanying H.R. 2342, 100th Cong., 2d sess. (1988), and H.R. Rep. No. 100-154 (Committee on Merchant Marine and Fisheries), at 8 and 27, accompanying H.R. 2342, 100th Cong., 2d sess. (1988).

in situations where: (1) there was a base closure or realignment; (2) the property was purchased before July 1, 2006, and sold between that date and September 30, 2012; (3) the property is the owner's primary residence; and (4) the owner has not previously received benefits under the Program.

The American Recovery and Reinvestment Act of 2009 further authorized similar Program assistance or reimbursement with respect to: (1) wounded members and wounded civilian DOD and Coast Guard employees (and their spouses); and (2) members permanently reassigned from an area at or near a military installation to a new duty station more than 50 miles away (with similar purchase and sale date, residence, and no-previous-benefit requirements as above). Allows the Secretary to provide compensation for losses from home sales by such individuals in order to ensure the realization of at least 90% (in some cases, 95%) of the pre-mortgage-crisis assessed value of such property.[2]

Eligibility Criteria: To qualify for benefits under HAP, a member of an armed force must have been (1) the owner-occupant of the dwelling with respect to which assistance is sought or have vacated the dwelling within the six-month period before the closure announcement as a result of having been ordered to occupy on-base housing and (2) either (a) serving at or near the Department of Defense or Coast Guard base or installation when the announcement of the closure or reduction was made, or (b) transferred from the base or from a duty station in the area of the base or installation during the six-month period immediately preceding the announcement, or (c) transferred from the base or from a duty station in the area of the base or installation during the three-year period immediately preceding the announcement and, in connection with the transfer, informed of a future, programmed reassignment to the installation. In addition, the applicant for assistance must either have been required to relocate because of a transfer beyond a normal commuting distance from the dwelling for which benefits are sought or have become unemployed and be unable to meet mortgage payments and related expenses with respect to the dwelling for which benefits are sought.

Benefits Available: Any one of three benefits is available to a service member under HAP, at the member's election. The three options are:

* A cash payment for losses sustained in the private sale of the dwelling, equal to the difference between (i) 95 percent of the fair market value of the property before the announcement and (ii) the fair market value at the time of sale or the actual sale price, whichever is higher; or

* Reimbursement for amounts paid as a result of foreclosure of the mortgage on the property, or payment by the government of such amounts if not paid by the applicant; or

* Sale of the property to the government at 90 percent of its fair market value before the announcement or for the full amount of the outstanding mortgages, whichever is higher.

Administration: DoD Directive 4165.50E of February 7, 2014, assigns responsibility for administration of the Program; Detailed guidance regarding available benefits, both foreign and domestic, are provided in regulations codified in part 239 of title 32, Code of Federal Regulations.

[2] Library of Congress, Congressional Research Service, "H.R. 1– American Recovery and Reinvestment Act of 2009: Introduced in House (01/26/2009)," https://www.congress.gov/bill/111th-congress/house-bill/1/summary/48 (accessed July 21, 2016). American Recovery and Reinvestment Act (ARRA), Pub. L .No. 111-5, 123 Stat. 115 (2009).

Chapter V.B.5.
Enlisted Aides

Legislative Authority: 10 U.S.C. §981. (For the Navy and Marine Corps, also see 10 U.S.C. §7579; for the Army and Air Force, see 10 U.S.C. §§3013 and 8013, respectively (derived from general powers of the Secretaries of the Army and Air Force). *Cf.* 10 U.S.C. §§3639 and 8639.)

Purpose: To relieve certain general and flag officers occupying especially demanding and sensitive positions from having to perform various routine duties and chores, by providing enlisted "aides" to assist them and thereby to allow the affected officers to carry out their respective primary duties and responsibilities more effectively.

Background: A report prepared by the United States General Accounting Office asserts that "enlisted aides have been provided to officers of the United States Armed Forces since the Revolutionary War."[1] The earliest identifiable legislative authority bearing on the provision of such "aides" is the Act of July 6, 1812, ch. 137, §5, 2 Stat. 784, 785 (1812), which allowed officers the pay, rations, and clothing of a private soldier for as many "waiters" as they might keep, not to exceed a number fixed by regulations. Somewhat later, the Act of March 30, 1814, ch. 37, §§9 and 10, 3 Stat. 113, 114 (1814), specified the number of "servants" for which officers might receive allowances, rather than having that number fixed by regulations. The number of allowances for servants authorized in the 1814 act ranged from one for either a company officer commanding a separate post or detachment or a staff officer captain to four for a major general.

It may be inferred from the language of the early statutes that Congress contemplated the employment of civilian servants by officers and that the purpose of providing the allowance was to subsidize, or defray the costs of, such private employment. Apparently, however, the practice of using enlisted personnel as servants arose despite Congress's original intent. The Act of July 17, 1862, ch. 200, §3, 12 Stat. 594 (1862), recognized the practice by providing that "whenever an officer of the Army shall employ a soldier as his servant he shall, for each and every month during which said soldier shall be so employed, deduct from his own monthly pay the full amount paid to or expended by the Government per month on account of said soldier." At the same time, the act did not disturb the servants' allowances to which officers were entitled. Thus, the provision in question appears to have been aimed at preventing an officer from simultaneously receiving money to subsidize the employment of a servant while at the same time having the cost-free service of one or more enlisted members. Since servants' allowances were based on the pay and allowances of a private soldier, an officer would have had to deduct more than the amount of his allowance from his own pay if employing a soldier of a higher grade as a servant.

The Act of July 15, 1870 (Army Appropriations Act, 1871), ch. 294, 16 Stat. 315 (1870), established a salary system for Army officers and eliminated servants' allowances. It also provided that "the pay and allowances of the enlisted men of the Army shall remain as now fixed by law until the 30th of June, 1871; and it shall be unlawful for any officer to use any enlisted man as a servant in any case whatever." [See Army Appropriations Act, 1871, ch. 294, *id*., §14, 16 Stat. 319.] The prohibitory part of this provision was later enacted into permanent law as Revised Statute 1232, the source of current Sections 3639 and 8639 of Title 10, United States Code, which continue to prohibit Army and Air Force officers from using enlisted members as "servants."

For many years it was considered that the prohibition in the Army Appropriations Act, 1871, ch. 294, *id*., and Revised Statute 1232 constituted an absolute bar on the use of enlisted personnel in a service capacity in Army officers' quarters and messes. However, World War II conditions caused a new approach to be taken. Although the statute remained unchanged, a different interpretation was applied. This

[1] *Enlisted Aide Program of the Military Services*, Report to the Congress by the Comptroller General of the United States, April 18, 1973, 8.

interpretation maintained that the prohibition intended by Congress was to be determined by the object of the enlisted member's employment—that is, whether the employment was a military task beneficial to the Army or a personal service for an officer or group of officers. This interpretation was upheld by an Army Board of Review, which in an opinion dated May 23, 1945, concluded:

> The statute in question (RS 1232 [Revised Statutes §1232 (1878)]) is one which obviously places a restriction upon officers using enlisted men as servants. It does not restrict or attempt to prevent an enlisted man from rendering a personal service to an officer if the enlisted man so chooses; it was obviously not designed to prevent the use of enlisted men for military purposes. The sole purpose of the statute is to prevent the use of enlisted men as personal servants. If the work in question is to be performed in the capacity of a private servant to an officer (against the enlisted man's will) then, under any circumstances, it is exactly contrary to the statute. If, on the other hand, the service is rendered as a military necessity and not in the capacity as a servant, it is not exacted unlawfully merely because an officer or group of officers benefit thereby.[2]

In a decision of September 16, 1955, the United States Court of Military Appeals reached a similar conclusion in regard to the distinction between "personal servants" and "enlisted aides," though it disavowed the Army Board of Review's implication that an enlisted member may volunteer to serve as a personal servant and thus cloak an otherwise proscribed assignment with legality. The court stated in pertinent part:

> The word "servant" has a myriad of meanings, but as used in the context of the original act, we conclude Congress intended to give it the meaning of one who labors or exerts himself for the personal benefit of officers. Certainly it could not have intended to prevent an enlisted man from laboring for officers in the furtherance of their official duties. As enacted originally, the Act suggests that Congress was interested in having the enlisted men of the Army earn their pay in the performance of military duties, and not as personal servants attending to the physical comforts of their individual superior officers....
>
> A construction which would apply the proscription to the kind of work done, and not to its ultimate purpose, would so circumscribe the military community that the preparation for, or the waging of, war would be impossible. In some degree at least, most enlisted men from the time they are inducted into the military service, spend some of their working hours performing tasks for commissioned officers, and in many cases the labors directly benefit the officer. Many of the tasks are equivalent to those performed by servants.[3]

The Army Appropriations Act, 1871, ch. 294, *id*., and Revised Statute 1232 applied only to the Army, and no similar statutory prohibition was placed against the use of naval enlisted personnel as servants until the Act of March 3, 1933 (Naval Service Appropriations Act, 1934), ch. 213, Pub. L. No. 72-429, 47 Stat. 1521, 1530 (1933), specified that none of the funds appropriated therein were to be made available "for the pay, allowances, or other expenses of any enlisted man or civil employee performing service in the residence or quarters of an officer or officers on shore as a cook, waiter, or other work of a character performed by a household servant." The House Appropriations Committee explained the purpose of the provision in these terms:

> It has been the practice for many years to detail enlisted men rated as stewards, cooks, and mess attendants to the residences or quarters of commanding officers of the more important shore activities....

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[2] *United States v. Semioli*, 53 BR 65 (1945).
[3] *United States v. Robinson*, 6 USCMA 347, 20 CMR 63 (1955).

> While it may be argued that officers occupying such positions should provide their own servants, and that view certainly cannot be controverted with respect to many of the details, it is questionable whether or not officers occupying such positions as the Chief of Naval Operations and the Superintendent of the Naval Academy, whose positions make necessary a considerable amount of official entertaining, should be required to defray the expenses of servants the need for whom is occasioned solely by the official stations of the incumbents of such positions. If this need be recognized as an appropriate expense of the Government in the two instances cited, perhaps the better way to handle the situation would be through a special allowance for the employment of civilian servants.
>
> With the pressure for more enlisted men for duty on shipboard and the ever present need for rigid economy, the committee has taken the position that the present practice can not be longer or at least at this time justified and has included on page 24 of the bill a provision designed to stop the practice. The committee is advised that no enlisted men in the Army are detailed in the capacity of servants in the residence or quarters of officers of the Army.[4]

The Act of March 15, 1934 (Naval Service Appropriations Act, 1935), ch. 69, Pub. L. No. 73-122, 48 Stat. 403, 411–12 (1934), continued the prohibition against the use of appropriated funds to pay enlisted personnel assigned to domestic service in officer residences and quarters on shore, but excepted from the prohibition "the public quarters occupied by the Chief of Naval Operations, the Superintendent of the Naval Academy, the Commandant of the Marine Corps, and messes temporarily set up on shore for officers attached to seagoing vessels, to aviation units based on seagoing vessels, and to landing forces and expeditions." The Act of June 24, 1935 (Naval Service Appropriations Act, 1936), ch. 291, Pub. L. No. 74-163, 49 Stat. 398, 408 (1935), relaxed the prohibition further by permitting, in addition to the previous year's exceptions, the use of appropriated funds to pay not more than 40 enlisted personnel performing domestic service "at such places as shall be designated by the Secretary of the Navy." The easing of the prohibition in both the 1935 and 1936 Naval Service Appropriations Acts resulted from amendments added by the Senate Appropriations Committee. The committee's reports on the bills offer no explanation for its action in this regard.

The prohibition against the use of appropriated funds to pay enlisted personnel assigned to domestic service in officer residences or quarters on shore, subject to the stated exceptions, was continued in each annual naval appropriation act through fiscal year 1946, though by 1946 the limit on the number of personnel who could be assigned at places designated by the Secretary of the Navy had been raised to 300. It was brought to the Navy's attention in 1946 that the naval appropriations bill requested funds for a number of items for which there was no authority in permanent law, and it was suggested that the Navy take action to obtain permanent authority for them. This suggestion resulted in a legislative proposal introduced as S. 1917, 79th Cong., 2d sess. (1946). Among other things, this bill provided that "[e]nlisted naval personnel may be assigned to duty in a service capacity in officers' messes and public quarters, under such regulations as the Secretary of the Navy may prescribe, where the Secretary finds the use of such personnel for such work is desirable for military reasons...." This provision was enacted as part of the Act of August 2, 1946, ch. 756, Pub. L. No. 79-604, §16(b), 519, 60 Stat. 853, 859 (1946), and is the source of current Section 7579 of Title 10, United States Code.

The House and Senate reports on S. 1917, 79th Cong., 2d sess. (1946), spoke briefly of the Navy enlisted-aide authority, both merely stating that "Subsection 16(b) is designed to take the place of the present proviso ... at the end of 'Pay and Allowances' in the appropriation 'Pay and subsistence of naval personnel.'"[5] In fact, with respect to authority for enlisted aides, the 1946 act stood the preexisting law on

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[4] H.R. Rep. No. 2075 (Committee on Appropriations), at 13, accompanying H.R. 14724, 72d Cong., 2d sess. (1933).
[5] H.R. Rep. No. 2549 (Committee on Naval Affairs), at 7, and S. Rep. No. 1173 (Committee on Naval Affairs), at 6, accompanying S. 1917, 79th Cong., 2d sess. (1946).

its head. It transformed what had at first been an outright prohibition against the specified employment of enlisted personnel and later a prohibition subject to certain exceptions into affirmative authority for such employment. It permitted the assignment of enlisted personnel to "officers' messes" without any qualification as to the type of officers' messes to which they could be assigned. In addition, it removed the limitation on the number of enlisted aides who could be assigned in officers' quarters and residences on shore. In place of these limitations, the 1946 act imposed a new restriction on such assignments by authorizing them only when "desirable for military reasons." Finally, the 1946 act made a subtle shift in emphasis by replacing the vaguely pejorative "service as a cook, waiter, or other work of a character performed by a household servant" with "duty in a service capacity."

The current legislative provisions bearing on the use of enlisted personnel in a service capacity make no distinction between enlisted personnel assigned to officers' quarters and those assigned to officers' messes. Original DoD Directive 1315.9 governing the assignment of enlisted personnel to duty in public quarters and on the personal staffs of general and flag officers was issued on February 2, 1960, and identified personnel so assigned as "enlisted aides." That term has since come to mean only those personnel covered by DoD Directive 1315.9, and not those assigned to officers' messes. Congressional oversight of the enlisted-aide issue has ever since taken place in the context of this understanding.

The enlisted-aide program was not a particularly controversial issue in the years following World War II until, starting in November 1972, it became the subject of review by the Congress, the General Accounting Office, the Internal Revenue Service, and the Office of the Secretary of Defense. On November 20, 1972, a member of the Senate asked the General Accounting Office to study the enlisted-aide program. On April 18, 1973, the Comptroller General submitted a report (B-177516) to Congress on the program. The report made no recommendation concerning the need for the program or the number of persons assigned to it but did note that some aides were occasionally given tasks they were not supposed to do. It suggested that the regulations be revised to include a specific list of the tasks aides should or should not be called upon to perform and that every aide and each officer assigned aides be furnished a copy of the regulations. Revised policy guidance was issued on August 16, 1973, by the Department of Defense. The new policy reduced the number (1,722) of aides assigned in December 1972 to a maximum of 1,245 effective March 1, 1974, specified that only volunteers be assigned as enlisted aides, outlined the duties aides may perform, and based the assignment of aides on (1) the occupancy of public quarters, (2) the size and age of the public quarters, and (3) the representational responsibilities of an officer's duty assignment.

On June 8, 1973, the Internal Revenue Service advised a member of Congress in response to her inquiry that the value of services performed by enlisted aides did not have to be included in an officer's gross income for tax purposes as long as the aides were used only in an authorized manner to benefit the officer primarily in his or her official capacity.

Congressional action taken on the Department of Defense Appropriation Authorization Act, 1974, Pub. L. No. 93-155, 87 Stat. 605 (1973), reduced the enlisted-aide ceiling to 675, although this ceiling was not reflected in the act itself. The report of the House–Senate Committee of Conference describes how the new ceiling was imposed:

> In approving manpower authorizations for the Department of Defense the House Committee on Armed Services specified in its report that the present total of enlisted aides, 1,722, was excessive, and that the number should be reduced to 1,105.
>
> The Senate bill contained a provision, Section 1103, which would limit use of enlisted aides to no more than two for four-star officers and no more than one for three-star officers plus one additional aide for the Chiefs of Staff of each service. The Senate provision reduced the limit of aides to 218. The House conferees were able to convince the Senate conferees that the limitation in the Senate bill was too restrictive and that language in the law is not required.

> The Senate therefore recedes on its language and the conferees agree that the number of enlisted aides shall be limited to a total of no more than 675 with the distribution for authorization of use of such aides among the military departments to be determined by the Secretary of Defense.[6]

Neither the Department of Defense Appropriation Authorization Act, 1975, Pub. L. No. 93-365, 88 Stat. 399 (1974), nor any formal action taken by Congress effected a change in the existing 675 enlisted-aide ceiling, but the Conference Report on the act required a report from the Secretary of Defense on the need for such aides, in these terms:

> Section 704 of the Senate amendment contained a provision that only 218 enlisted men be assigned on a temporary basis to perform the duties of enlisted aides. The House bill did not address the issue.
>
> The Senate conferees expressed the belief that the enlisted aide program was still being abused, there were too many unnecessary social activities engaged in by high ranking military personnel, and that curtailment of authority for aides would help curtail unnecessary functions.
>
> The House conferees pointed out that the congressional action taken during fiscal year 1974 reduced the number of aides from 1,722 to 675. The latter number was to be put in effect beginning July 1, 1975, and had not been given an opportunity to work. The House conferees were insistent that the agreement of last year be permitted to operate, at least on an experimental basis, before further reductions are made. The Senate conferees insisted that last year's action was insufficient. The Senate conferees agreed to yield on the number limitation provided the matter receives further scrutiny.
>
> The conference, therefore, directs the Secretary of Defense to study the need for enlisted aides to provide military assistance to senior military officials and to report to Congress the results of the study within 90 days. It was further agreed by the conferees that the House or Senate Armed Services Committee, or both, would hold hearings as soon as possible.[7]

The Secretary of Defense submitted the report called for in the Conference Report on November 1, 1974. In the meantime, however, the Senate had on August 21, 1974, accepted a floor amendment to the fiscal year 1975 Defense Appropriation Bill which provided that none of the funds it appropriated could be used to support more than 218 enlisted aides. The House–Senate Conference Committee agreed to the amendment but not the limit. As enacted, the Department of Defense Appropriation Act, 1975, Pub. L. No. 93-437, §848, 88 Stat. 1212, 1232 (1974), provided that none of the funds appropriated could be used to support more than 500 enlisted aides.

The Department of Defense Appropriation Authorization Act, 1976, Pub. L. No. 94-106, §820, 89 Stat. 531, 544–45 (1975), specified that, notwithstanding any other provisions of law, the number of enlisted personnel who may be assigned as enlisted aides during any fiscal year could not exceed the total of four times the number of officers serving in pay grade O-10 and two times the number of officers serving in pay grade O-9 at the end of the fiscal year. On October 1, 1975, the Assistant Secretary of Defense for Manpower and Reserve Affairs allocated 390 enlisted aides to the services under the formula—114 to the Army, 140 to the Air Force, 114 to the Navy, and 22 to the Marine Corps. The report of the House–Senate Conference Committee expands on the intent of the provision:

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[6] H.R. Rep. No. 93-588 (Committee of Conference), at 43, accompanying H.R. 9286, 93d Cong., 1st sess. (1973).
[7] H.R. Rep. No. 93-1212 (Committee of Conference), at 44–45, accompanying H.R. 14592, 93d Cong., 2d sess. (1974).

> Section 912 of the Senate amendment contained a provision specifying that enlisted aides could only be assigned to four and three star general and flag officers of the armed forces in the following allocation: three aides for the Chairman of the Joint Chiefs of Staff, the Chiefs of Staff of the Armed Forces, and the Commandant of the Marine Corps; two for other officers in the rank of general or admiral; and one for officers in the rank of lieutenant general or vice admiral. This would result in a total of approximately 204 aides compared to the current number of 500.
>
> The House bill contains no such provision. The conferees agreed that a provision in the law controlling the number of enlisted personnel assigned to officers staffs as aides was appropriate. However, the conferees consider that the assignment of these aides should be based not on the rank of the particular officer, but rather on the officer's position and its incumbent responsibilities. While the number of aides is to be determined by a formula based upon the total number of four star officers (four for each), and three star officers (two for each), the Secretary of Defense is given the authority to allocate these aides as he deems appropriate. The assigned duties of the officers should be the controlling factor.
>
> This formula for determining the number of aides will result in 396 aides for fiscal year 1976. Generals of the Army and admirals of the fleet are not considered in this formula; however this omission is not intended to alter the current practice of assigning aides to these officers.[8]

The Department of Defense Appropriation Act, 1976, Pub. L. No. 94-212, §745, 90 Stat. 153, 175 (1976), provided that none of the funds appropriated could be used to support more than 396 enlisted aides for fiscal year 1976. The report of the House–Senate Conference Committee explains the provision:

> The Senate receded to the House language which provides a total of 396 enlisted aides. The Senate language had reduced the total to 250. The House language was in conformance with that approved in the fiscal year 1976 Defense Authorization Act.[9]

The Department of Defense Appropriations Acts for fiscal years 1977 through 1982 established a ceiling of 300 enlisted aides. [See Department of Defense Appropriation Act, 1977, Pub. L. No. 94-419, §748, 90 Stat. 1279, 1299 (1976) (for fiscal year 1977); Department of Defense Appropriation Act, 1978, Pub. L. No. 95-111, §849, 91 Stat. 886, 908 (1977) (for fiscal year 1978); Department of Defense Appropriation Act, 1979, Pub. L. No. 95-457, §848, 92 Stat. 1231, 1252 (1978) (for fiscal year 1979); Department of Defense Appropriation Act, 1980, Pub. L. No. 96-154, §748, 93 Stat. 1139, 1160 (1979) (for fiscal year 1980); Department of Defense Appropriation Act, 1981, Pub. L. No. 96-527, §747, 94 Stat. 3068, 3089 (1980) (for fiscal year 1981); and Department of Defense Appropriation Act, 1982, Pub. L. No. 97-114, §746, 95 Stat. 1565, 1586 (1981) (for fiscal year 1982).]

No appropriation act for the Department of Defense was passed for fiscal year 1983, but the limitations on the number of enlisted aides were continued in effect for that year through passage of a multi-departmental continuing appropriation act. [See Act of December 21, 1982 (Continuing Appropriations, 1983), Pub. L. No. No. 97-377, Title I, §101(c) [Title VII, §745], 96 Stat. 1830, 1858 (1982).] The Department of Defense Appropriation Act, 1984, Pub. L. No. 98-212, §742, 97 Stat. 1421, 1446 (1984), continued the enlisted-aides ceiling of 300 for fiscal year 1984. For fiscal year 1985, the same ceiling was maintained by the Act of October 12, 1984 (Continuing Appropriations, 1985), Pub. L. No. 98-473, Title I, §101(h) [Title VIII, §8034], 98 Stat. 1837, 1930 (1984).

The limitation on the number of enlisted aides was formally codified at 10 U.S.C. §981(b) by the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §1401(c)(1), 98 Stat. 2492, 2615

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[8] H.R. Rep. No. 94-488 (Committee of Conference), at 72–73, accompanying H.R. 6674, 94th Cong., 1st sess. (1975).
[9] H.R. Rep. No. 94-710 (Committee of Conference), at 60, accompanying H.R. 9861, 94th Cong., 1st sess. (1975).

(1984). As explained in the House–Senate Conference Report,[10] the limitations were codified in response to the requirement of Section 1267 of the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1267, 97 Stat. 614, 705 (1983), for the Secretary of Defense to submit to the House and Senate Committees on Armed Services proposed legislation

> ... for codification into appropriate titles of the United States Code, or for incorporation into other existing laws, those provisions of law that have been enacted during the past five years as a part of the annual Department of Defense Authorization Act or the annual Department of Defense Appropriation Act under the heading `General Provisions' and that in the opinion of the Secretary should be so codified or incorporated.

In establishing this requirement, the Senate Armed Services Committee noted:

> The committee has observed that it has been the practice of the Department of Defense to submit the same proposed legislative provisions each year in the Department of Defense Authorization Act or the Department of Defense Appropriations Act. Many of these provisions which have been enacted on an annual basis are appropriate for codification in Title 10 of the United States Code or in other parts of Federal law. Accordingly, it is the Committee's view that the Secretary of Defense should evaluate each general provision that has been enacted over the last five years as part of a Defense Department Authorization or Appropriation Acts and submit to the Congress a legislative proposal for the codification of those general provisions which the Secretary judges to be appropriate for incorporation in the United States Code. The Committee believes that the enactment of such a codification bill would be a far more efficient manner of dealing with these legislative proposals than considering the same provisions every year.[11]

With the codification of the limitation on the number of enlisted aides, it is no longer necessary to impose annual limitations through the appropriations process.[12]

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[10] H.R. Rep. No. 98-1080 (Committee of Conference), at 336, accompanying H.R. 5167, 98th Cong., 2d sess. (1984). See S. Rep. No. 98-500 (Committee on Armed Services), at 265, accompanying S. 2723, 98th Cong., 2d sess. (1984).

[11] S. Rep. No. 98-174 (Committee on Armed Services), at 259, accompanying S. 675, 98th Cong. 1st sess. (1983). See H.R. Rep. No. 98-352 (Committee of Conference), at 262, accompanying S. 675, 98th Cong., 1st sess. (1983).

[12] In deliberations on the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, 106 Stat. 2315 (1992), the Senate proposed a reduction in the number of statutorily permitted enlisted aides from 300 to 240 "consistent with the 20 percent reduction in general and flag officers mandated by the National Defense Authorization Act for Fiscal Year 1991." S. 3114, §562, 102d Cong., 2d sess. (1992); see S. Rep. No. 102-352 (Committee on Armed Services), at 205–6, accompanying S. 3114, 102d Cong., 2d sess. (1992). The Senate provision was eliminated in conference, with the conferees noting:

> ... The conferees expect the Secretary of Defense [sic] to review the current practices and numbers with regard the Senate and House of Representatives by April 1, 1993. The conferees expect the review to consider the existing limit on the number of enlisted aides that are authorized and the overall reduction in the number of general and flag officers. In this regard, the conferees expect the Committees on Armed Services to consider and take appropriate action on the recommendations of the Department of Defense in this area next year.

See H.R. Rep. No. 102-966 (Committee of Conference), at 711–12, accompanying H.R. 5006, 102d Cong., 2d sess. (1992). Notwithstanding the directory language of the committee of conference, the statutory limit on the number of enlisted aides remains at 300.

Chapter V.C.1.
Travel and Transportation Allowances

Legislative Authority: 37 U.S.C. §§455, 474-481 (new chapter 8)[1]

Purpose: To provide members of the uniformed services who perform travel on public business under competent orders with transportation and subsistence or with allowances to reimburse them for their costs of obtaining transportation and subsistence.

Background: Travel and transportation allowances for members of the armed forces fall into three main categories: (1) member travel, (2) dependent travel, and (3) transportation of household goods. Such allowances are provided either in cash or in kind. The authorization of these allowances for military personnel who perform ordered travel on government business is at bottom premised on the notion that, where travel is performed on government orders for the convenience of the government, the government should bear the reasonable and necessary expense of such travel and transportation and defray the incidental costs members may incur to subsist themselves while in a travel status. For these purposes, the cost of subsistence includes the costs of food, lodging, and various related expenses. A wide variety of allowances is authorized in this connection, a brief description of some of the more prominent of which follows.

Member Travel

Permanent change-of-station transportation may be furnished a member either (1) in kind (including government transportation or government-furnished transportation), (2) by reimbursement for common carrier transportation purchased at a member's own expense, or (3) by payment of a monetary allowance, in lieu of transportation (MALT), and per diem. Subsistence is furnished a member who receives transportation either in kind or through reimbursement by means of a per diem allowance designed to refund, on an average and reasonable basis, the costs of such subsistence. In short, a member in a PCS travel status is furnished the components of transportation or reimbursement either through a combination of transportation and reimbursement plus constructive per diem. Temporary duty transportation may be furnished a member either (1) in kind, (2) by reimbursement for common carrier transportation purchased at a member's own expense, or (3) by payment of transportation mileage allowance when privately owned conveyance is used. Subsistence for such travel may be furnished an affected member either (1) in kind, (2) by payment of a per diem allowance, (3) by a combination of (1) and (2) under which per diem is reduced for food and/or lodging furnished in kind, or (4) by reimbursement for actual and necessary subsistence expenses incurred by the member. Per diem rates are based on locality. The "lodgings-plus-per diem" method is used to compute the reimbursements of the traveler's actual lodgings cost (not to exceed a pre-established locality maximum) and provides a set amount to cover meals and incidental expenses (M&IE). Reimbursement on an actual-expense basis can be authorized only when unusual conditions cause the actual meal and lodging costs to exceed the maximum per diem allowance, or in situations where the traveler has no alternative but to incur lodging costs that absorb all or nearly all of the maximum per diem allowance. In short, a member in a temporary duty travel status is furnished the components of transportation and subsistence through a combination of transportation, reimbursement, or a constructed per diem, or, in some cases, reimbursement of actual subsistence expenses.

The existing provisions of Titles 10 and 37, United States Code, that cover travel and transportation allowances derive from the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949). These provisions are not self-executing but instead merely authorize the payment of certain amounts, within specified limits, under regulations to be prescribed by the Secretaries of the uniformed services, including three non-DoD Secretaries. In practice, the six Secretaries exercise their regulation promulgation authority through the Per Diem, Travel and Transportation Allowance Committee (a uniformed services

[1] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle D, Sec. 631, 125 Stat. 1298, 1452-1465 (2011). New law 37 U.S.C. §§ 451 - 464

committee), and the regulations issued under its authority are contained in the Joint Travel Regulations (JTR). Regulations properly prescribed in the JTR have the same force and effect as a statute enacted by Congress. The Secretaries may, through the JTR, prescribe lesser travel and transportation allowances than authorized by Titles 10 and 37, but they may not exceed any limits contained in Title 37 nor prescribe any allowance not contemplated by statute. No discretionary travel or transportation allowance exists for military personnel unless and until it has been prescribed in the JTR, even if authorized by statute.

Member travel was originally provided as a matter of policy and regulation, rather than under explicit authority of law, and was limited to transportation in kind or to reimbursement of actual expenses. The Act of March 3, 1835, ch. 27, §2, 4 Stat. 755, 757 (1835), authorized a mileage allowance of 10 cents a mile to pay for all transportation and subsistence expenses for Navy officers ordered to make a permanent change of station (PCS). The Act of August 14, 1848, ch. 173, 9 Stat. 304, 305 (1848), appropriated funds for a mileage allowance for Army officers. The allowance stemming from this tacit authorization was set at 10 cents a mile for those same expenses by Army regulations. The Act of July 17, 1862, ch. 200, §7, 12 Stat. 594, 594–95 (1862), was the first permanent statutory authority for the Army mileage allowance and established a rate of 6 cents a mile except when the between-station travel required a crossing of the Rocky Mountains, when the rate was 10 cents per mile. The Act of July 15, 1870 (Army Appropriation Act, 1871), ch. 294, §24, 16 Stat. 315, 320 (1870), changed the dual 6-cent/10-cent Army mileage allowance to a single rate of 10 cents per mile. The Act of June 30, 1876, ch. 159, 19 Stat. 65 (1876), reduced the Navy allowance from 10 to 8 cents a mile. The mileage allowance remained at 8 cents per mile until the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §303, 63 Stat. 802, 813–15 (1949). Even after adoption of the Career Compensation Act of 1949, however, the mileage allowance was limited by regulations to 6 cents per mile for travel performed before July 1, 1974, when it was increased to 8 cents per mile. Subsequently, the mileage allowance was further increased to 10 cents per mile. Effective October 1, 1980, the Secretaries of the various military departments were given authority to prescribe mileage allowance rates under the Military Personnel and Compensation Amendments of 1980, Pub. L. No. 96-343, §5, 94 Stat. 1123, 1126 (1980). Pursuant to this grant of authority, the Per Diem, Travel and Transportation Allowance Committee promulgated a mileage allowance rate of 18.5 cents per mile, but Congress refused to approve such a rate through the appropriations process. Currently, members performing government-ordered travel are not allowed a mileage allowance that covers transportation and subsistence expenses, but are paid per diem and either reimbursed for transportation or paid a monetary allowance in lieu of transportation (MALT) for the use of their privately owned vehicle (POV) while traveling PCS.

The Defense Department Authorization Act for Fiscal Year 1986, Pub. L. No. 99-145, provided that members who travel by POV receive a MALT at the same rate as that set by the General Services Administration for civilian employees. Pub. L. No. 99-145 also established a flat per diem rate of $50 to cover other expenses. The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, increased that rate to the standard CONUS per diem rate.

The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §12, 42 Stat. 625, 631 (1922), was the first legislation to authorize a per diem allowance for military personnel. Per diem is authorized on a daily basis for the time required to travel between permanent duty stations or in connection with temporary duty, and for periods spent at a temporary duty station. The Joint Service Pay Readjustment Act of 1922 fixed the maximum per diem allowance in the United States at $6 a day. The increases in this maximum rate in subsequent legislation to some extent compensate for the nation's changing food-and-lodging cost patterns:

Date of Legislation	Maximum U.S. Per Diem Allowance
June 26, 1943	$7
October 12, 1949	9
March 27, 1962	12

Date of Legislation	Maximum U.S. Per Diem Allowance
June 27, 1962	16
December 31, 1969	25
May 29, 1976	35
September 1, 1980	50

On the other hand, when the rates remain fixed for a substantial length of time, the relationship between the per diem rate and the costs the per diem intended to defray was eroded.

The last specific dollar increase—to $50 per day—was authorized by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §807(a), 94 Stat. 1077, 1096 (1980). This same act authorized reimbursement for "actual and necessary expenses" for extra high-cost areas or "unusual circumstances" up to a maximum of $75 per day. The National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §614(a)(1), 100 Stat. 3816, 3879 (1986), eliminated the dollar restrictions from Title 37, United States Code, and effectively provided that per diem for members of the uniformed services is to be paid at rates provided in Section 5704 of Title 5, United States Code.

A member ordered to perform temporary duty away from his or her permanent duty station is authorized under the JTR to per diem at a rate, determined by the location, for the time required to perform the travel, and to either per diem, subsistence in kind, or a combination of the two, for periods spent at a temporary duty station, plus either transportation in kind, reimbursement for the cost of transportation, or a mileage rate as set by General Services Administration per mile for the officially determined distance of the ordered travel.

Dependent Travel

The Act of May 18, 1920, ch. 190, Pub. L. No. 66-210, §12, 41 Stat. 601, 604 (1920), authorized transportation in kind for the dependents of military personnel ordered to make a permanent change of station. The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §12, 42 Stat. 625, 631 (1922), gave such personnel a choice between transportation in kind or reimbursement of actual transportation expenses for their dependents. The Act of April 27, 1946, ch. 240, Pub. L. No. 79-368, §2, 60 Stat. 126, 126–27 (1946), added another option by authorizing a monetary allowance of 4 cents a mile for dependents 12 years of age and over and 2 cents a mile for those at least 5 but under 12 years of age, in lieu of transportation in kind or reimbursement of actual expenses.

Current law provides that a member ordered to make a permanent change of station may, in addition to his or her own transportation or allowances, be authorized transportation in kind, reimbursement therefor, or a monetary allowance in lieu of transportation, plus per diem for dependents. The MALT rate is paid per vehicle required to move the member and dependents. The dependent per diem rates are 75 percent of the member rate (as determined from JTR tables) for dependents 12 years and older, and 50 percent of the member rate for dependents younger than 12.

Household Goods

The Army Appropriation Act of August 23, 1842, ch. 183, §1(11), 5 Stat. 508, 509 (1842), provided funds for transporting the household effects of Army personnel. This appropriation was renewed year after year, but a permanent law authorizing such transportation was not adopted until 1946. The Act of May 18, 1920, ch. 190, Pub. L. No. 66-210, §12, 41 Stat. 601, 604 (1920), stated that "personnel of the Navy shall have the same benefit of all existing laws applying to the Army and Marine Corps for the transportation of household effects." Although this provision was somewhat unclear, since the Army's authority to ship household goods was dependent on its annual appropriations rather than on permanent law, it was construed to mean that Navy personnel had the same household effects authorization granted Army and Marine Corps personnel by Army regulations. The Act of August 2, 1946, ch. 756, Pub. L. No. 79-604, §205, 60 Stat. 853, 860 (1946), finally adopted specific statutory authority for the shipment of household effects for the personnel of all branches of service.

Permanent law currently provides in broad terms that a member ordered to make a permanent change of station or temporary duty assignment is authorized transportation (including packing, crating, drayage, temporary storage, and unpacking) for his or her baggage and household effects, or reimbursement therefor. Different limitations were prescribed by the JTR for permanent change-of-station orders and temporary duty orders. Annual Department of Defense appropriation acts for years limited the amount of household goods transportable under this authority to a maximum net weight of 13,500 pounds in connection with any one permanent change of station.[2] Under the JTR, the 13,500-pound limit applied to officers in pay grade O-6 and above. This amount was gradually scaled down, by pay grade, to 7,000 pounds for enlisted personnel in pay grade E-4 (with more than 2 years of service). Enlisted personnel in pay grade E-4 (with two or fewer years of service), E-3, E-2, and E-1 were authorized a maximum weight allowance of either 5,000 pounds or 1,500 pounds, depending on whether or not they had dependents. The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1144 (2001), increased the weight allowances of grades E-1 through E-4; for the three lowest grades, the maximums became 5,000 pounds without dependents and 8,000 pounds with dependents. For grade E-4, irrespective of time in service, the new maximums were 7,000 pounds without dependents and 8,000 pounds with dependents. For all pay grades, additional amounts could be shipped at the member's own expense. All JTR limitations were, and continue to be, explicitly made subject to such additional regulations as the individual services may prescribe.

The National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §602(a)(2), 102 Stat. 1918, 1976 (1988), adopted statutory weight limits for household goods shipments by pay grade and dependency status. The following table shows those limits in pounds, as modified by the National Defense Authorization Act for Fiscal Year 2002:[3]

Pay Grade	Without Dependents	With Dependents	Temporary Allowance
O-10 to O-6	18,000	18,000	2,000
O-5	16,000	17,500	1,500
O-4	14,000	17,000	1,000
O-3	13,000	14,500	1,000
O-2	12,500	13,500	800
O-1	10,000	12,000	800
W-5	16,000	17,500	800
W-4	14,000	17,000	600
W-3	13,000	14,500	600
W-2	12,500	13,500	600
W-1	10,000	12,000	600
E-9	12,000	14,500	500
E-8	11,000	13,500	400
E-7	10,500	12,500	400
E-6	8,000	11,000	400

[2] The 13,500-pound limitation was increased to 18,500 pounds in 1986, but no additional funds were appropriated to cover the higher costs associated with the increase. Accordingly, the JTR continued the 13,500-pound limitation until the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §602(a)(2), 102 Stat. 1918, 1976–1977 (1988), effectively overrode the regulatory limitation and established statutory weight limits by pay grade. For details on the amendments made by the 1989 National Defense Authorization Act, see the following paragraph in the main body of the present chapter.

[3] For an explanation of the reasons underlying adoption of the new and higher weight allowances for the shipment of household goods, see H.R. Rep. No. 100-563 (Committee on Armed Services), at 251–52, accompanying H.R. 4264, and S. Rep. No. 100-326 (Committee on Armed Services), at 93, accompanying S. 2355, 100th Cong., 2d sess. (1988); *cf*. H.R. Rep. No. 100-753 (Committee of Conference), at 403, accompanying H.R. 4264, and H.R. Rep. No. 100-989 (Committee of Conference), at 405, accompanying H.R. 4481, 100th Cong., 2d sess. (1988).

Pay Grade	Without Dependents	With Dependents	Temporary Allowance
E-5	7,000	9,000	400
E-4	7,000	8,000	400
E-3	5,000	8,000	400
E-2	5,000	8,000	400
E-1	5,000	8,000	400

These weight allowances apply to both permanent change of station and temporary duty. In practice, however, because the allowances are subject to such regulations as may be adopted under the JTR, weight allowances for temporary duty are less than those for permanent change of station.[4] For temporary duty orders, weight allowances range from 400 pounds for pay grade E-1 to 2,000 pounds for pay grade O-10.

For JTR purposes, the term "household goods" does not include property such as a motor vehicle or a mobile home owned by a member or the member's dependents, and these items may not be shipped under a member's weight allowance. Under certain conditions, however, such property may be transported at government expense or the member may be reimbursed for all or part of the cost. [See, e.g., 37 U.S.C. §479 (house trailers and mobile homes) and 37 U.S.C. §453 (privately owned vehicles).]

A member who is ordered to make a permanent change of station to, from, or between places outside the United States or upon an official change in the home port of the vessel to which assigned, may be, subject to some restrictions concerning vehicle weight, and service or foreign-government rules, authorized to have one motor vehicle owned by him/her or his/her dependents, for personal use of the member or the member's dependents, shipped to the port serving the new duty station.

A member who would otherwise be authorized to have household goods transported at government expense may elect, in place of such transportation, to receive an allowance for the transportation of a mobile home, to be used as a residence by the member and the member's dependents, within the contiguous United States, within Alaska, or between the contiguous United States and Alaska. In general, this allowance is in lieu of transportation of baggage and household goods. The amount of the allowance may not exceed what it would have cost the government to move the member's weight allowance of household goods. The member must pay excess costs, if any. Also, a member who is assigned to a duty station outside the United States, including Alaska, may have a mobile home moved in the United States, or Alaska, for use by the member's dependents.

The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 allows special weight allowance of up to 500 pounds for transportation of professional books and equipment for spouses. The same law authorizes transportation, including payment of shipping and quarantine costs, of two household pets in cases of evacuation from a permanent station located in a foreign area.[5]

General

As noted throughout this chapter, the Secretarial regulations implementing the authority for travel and transportation allowances of Title 37 impose grade and other limitations in some areas of travel and

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[4] Under further amendments made to the weight limitations shown above by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, 103 Stat. 1352, 1447 (1989), the Secretaries of various military departments are authorized to permit a higher weight allowance for members below pay grade O-6 if application of the limitations prescribed would result in "significant hardship" to the member or the member's dependents, provided that in no event may the weight allowance authorized exceed 18,000 pounds, the maximum weight allowance authorized for members in pay grades O-6 to O-10. The National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 1920 (1998), allows the Secretary concerned to permit a weight allowance above 18,000 pounds to allow shipment of consumables that cannot be reasonably obtained at the new duty station.

[5] Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, Title VI, Subtitle C, Sec. 621, 122 Stat. 4356, 4491 (2008).

transportation allowances that are not required by the statutory authority on which they are based, and they prescribe certain allowances that are less than the maximums authorized in the controlling statutes. It may accordingly appear that the Secretaries could remove limitations or increase allowances merely by administratively changing the regulations. This is in fact the case, but only in a strict legal sense. As a practical matter, a change of this nature requires the approval of Congress because of its oversight responsibility and its "power of the purse." Any proposal to change travel and transportation eligibility or to increase one or more allowance rates creates a need for funds that Congress must appropriate, and on occasion Congress has in fact refused to appropriate funds for certain travel and transportation allowances that are facially authorized by statute.

The National Defense Authorization Act for Fiscal Year 2012 stipulates that allowances, payments and reimbursements provided under 37 U.S.C. 474-481 terminate after the "travel authorities transition expiration date," defined as "the last day of the 10-year period beginning" January 1, 2012.[6] This legislation established a new title 37, Chapter 8 that gives the Secretary of Defense and other administering Secretaries broad, flexible authority to simplify travel and transportation policy and initiate pilot programs.

Cost: Temporary duty travel and transportation costs are paid by local commands from operations and maintenance funds, and costs for civilian and military personnel are maintained in a form that resists disaggregation. A breakdown between officer and enlisted personnel is not normally made in permanent change of station data.

Cost: For the cost of travel and transportation allowances from 1972 to 2016, see tables V-2A–2F, below.

Table V-2A. Member Travel Allowance, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	3,973,808	480,616
1973	2,347,826	355,451
1974	1,922,848	264,817
1975	1,769,779	346,967
1976	1,800,240	383,516
1977	1,498,354	409,514
1978	1,282,938	338,474
1979	1,310,802	342,782
1980	1,335,684	400,694
1981	1,299,213	695,013
1982	1,571,109	778,270
1983	1,731,577	718,651
1984	1,734,077	673,526
1985	1,972,474	731,384
1986	1,649,470	659,815
1987	1,572,689	608,516
1988	1,552,496	590,227
1989	1,532,409	598,636
1990	1,461,156	579,079
1991	---	595,995
1992	---	597,436

[6] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle D, Sec. 631, 125 Stat. 1298, 1460-1463.

Fiscal Year	Total Personnel	Cost ($000)
1993	---	556,575
1994	---	519,610
1995	---	529,143
1996	1,065,427	533,731
1997	1,034,862	539,932
1998	1,025,746	531,224
1999	998,938	552,846
2000	985,095	559,536
2001	773,085	434,766
2002	745,995	454,439
2003	763,292	463,812
2004	740,628	766,683
2005	747,743	752,533
2006	733,478	813,221
2007	867,147	731,998
2008	745,050	704,040
2009	838,705	772,301
2010	820,674	743,818
2011	806,166	745,507
2012	776,308	872,652
2013	785,106	853,542
2014	636,704	872,976
2015	661,768	846,717
2016[1]	653,753	866,139

--- No data available.

[1] The figures for 2016 are estimates.

Note: Sources for tables V-2A–2F are given at the base of table V-2F.

Table V-2B. Household Goods Transportation Tonnage Allowance, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	---	534,241
1973	---	603,000
1974	---	708,547
1975	---	817,441
1976	---	940,809
1977	---	799,108
1978	---	754,924
1979	---	844,020
1980	---	1,031,491
1981	---	1,192,943
1982	---	1,279,858
1983	---	1,254,951
1984	---	1,285,875
1985	---	1,279,830

Fiscal Year	Total Personnel	Cost ($000)
1986	---	779,737
1987	---	742,586
1988	---	773,527
1989	---	824,168
1990	---	922,497
1991	---	1,637,809
1992	---	1,735,531
1993	---	1,717,873
1994	---	1,548,059
1995	---	1,491,120
1996	683,411	1,717,074
1997	616,048	1,653,929
1998	623,411	1,706,214
1999	596,206	1,730,154
2000	542,665	1,645,176
2001	540,492	1,751,416
2002	565,033	1,795,384
2003	482,964	2,056,173
2004	443,156	1,676,727
2005	418,322	1,521,766
2006	534,133	1,936,416
2007	560,161	2,443,574
2008	633,353	2,434,784
2009	544,947	2,802,463
2010	500,551	2,689,294
2011	581,085	2,716,986
2012	583,952	2,209,428
2013	602,177	2,510,241
2014	592,748	2,446,605
2015	414,658	2,434,552
2016[1]	407,276	2,411,743

--- No data available.

[1] The figures for 2016 are estimates.

Note: Sources for tables V-2A–2F are given at the base of table V-2F.

Table V-2C. Dependents Travel Allowance, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	756,337	103,755
1973	446,908	107,733
1974	440,022	109,417
1975	400,809	112,609
1976	433,440	132,640
1977	379,946	125,033
1978	348,275	112,706
1979	373,046	119,416

Fiscal Year	Total Personnel	Cost ($000)
1980	364,725	127,745
1981	354,835	143,821
1982	481,077	157,275
1983	531,233	140,057
1984	590,706	158,962
1985	615,311	170,885
1986	629,140	252,864
1987	599,125	208,327
1988	609,666	225,669
1989	596,258	229,562
1990	583,920	224,471
1991	---	258,396
1992	---	262,226
1993	---	232,877
1994	---	274,689
1995	---	267,633
1996	467,310	251,985
1997	450,669	252,738
1998	440,478	255,435
1999	433,470	248,417
2000	391,587	213,115
2001	313,891	171,306
2002	295,920	169,398
2003	373,499	192,382
2004	241,193	174,869
2005	398,254	292,849
2006	404,903	297,375
2007	388,766	220,465
2008	335,826	256,813
2009	339,680	263,992
2010	330,316	253,915
2011	349,990	258,758
2012	358,658	291,948
2013	334,429	257,230
2014	316,143	230,409
2015	288,271	234,881
2016[1]	286,090	234,110

--- No data available.

[1] The figures for 2016 are estimates.

Note: Sources for tables V-2A–2F are given at the base of table V-2F.

Table V-2D. Transportation of Personal Owned Vehicles (POVs) and Trailer Allowance,* 1972–2016

Fiscal Year	Total Personnel	Cost ($000)
1972	18,695	11,829
1973	12,650	8,019
1974	10,691	6,517
1975	9,463	5,883

Fiscal Year	Total Personnel	Cost ($000)
1976	10,358	6,630
1977	5,186	2,745
1978	3,548	2,083
1979	3,871	2,420
1980	3,297	1,950
1981	1,371	2,880
1982	1,058	2,341
1983	1,260	2,618
1984	1,782	4,511
1985	2,995	6,804
1986	3,806	9,249
1987	3,677	9,107
1988	4,025	9,928
1989	3,917	9,881
1990	3,822	9,988
1991	3,884	10,350
1992	4,451	12,235
1993	4,118	11,678
1994	3,478	8,246
1995	3,541	8,623
1996	86,923	126,833
1997	83,315	145,475
1998	88,023	155,480
1999	84,573	78,128
2000	110,116	167,402
2001	93,629	178,574
2002	91,923	153,812
2003	57,744	143,997
2004	54,450	153,371
2005	51,653	160,977
2006	58,798	189,657
2007	79,318	204,742
2008	40,267	114,632
2009	36,155	98,408
2010	51,283	128,372
2011	54,325	135,955
2012	51,980	393,972
2013	51,552	63,649
2014	55,361	88,011
2015	41,706	85,229
2016[1]	42,095	81,708

[1] The figures for 2016 are estimates.

Note: Numbers and Amounts shown from 1972–1995 are for Trailer Allowance only and from 2012–2016 for the Marine Corps are for Personal Owned Vehicles only.

Note: Sources for tables V-2A–2F are given at the base of table V-2F.

Table V-2E. Temporary Lodging Expenses (TLE) Allowance, 1996–2016

Fiscal Year	Total Personnel	Cost ($000)
1972–1995	---	---
1996	---	54,992
1997	---	53,969
1998	---	57,060
1999	---	63,694
2000	---	68,040
2001	---	69,747
2002	---	76,420
2003	8,065	130,284
2004	7,715	75,515
2005	7,884	88,828
2006	7,810	99,425
2007	7,884	98,684
2008	9,028	96,730
2009	8,841	98,979
2010	8,141	93,817
2011	8,280	92,373
2012	0	94,411
2013	0	91,637
2014	0	88,601
2015	104,484	99,408
2016[1]	114,370	104,509

[1] The figures for 2016 are estimates.

Note: Numbers from 2009-2014 are shown only for the Marine Corps.

Note: Sources for tables V-2A–2F are given at the base of table V-2F.

Table V-2F. Permanent Change of Station (PCS) Costs Summary, 1996–2009

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1996	780,239	2,755,621	213,825	770,540	566,414	$1,985,081
1997	760,254	2,720,421	223,055	770,570	537,199	1,949,851
1998	756,273	2,832,100	213,222	815,286	543,051	2,016,814
1999	737,352	2,803,320	218,754	834,479	518,597	1,968,841
2000	728,730	2,876,751	204,869	823,127	523,861	2,053,624
2001	728,500	2,990,440	205,608	857,405	522,892	2,133,035
2002	698,816	3,050,601	219,208	978,253	479,608	2,072,348
2003	706,118	3,461,785	216,027	1,081,415	490,091	2,380,370
2004	707,285	3,220,456	237,485	1,089,016	469,800	2,131,440
2005	949,495	3,230,044	108,082	1,010,720	841,413	2,219,324
2006	906,591	3,629,350	107,914	1,152,522	798,677	2,476,828
2007	745,978	4,045,526	121,295	1,206,133	624,683	2,839,393
2008	707,829	4,000,604	110,884	1,242,624	596,945	2,757,980
2009	758,919	4,471,044	118,449	1,406,922	640,470	3,064,122

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2010	---	4,638,934	---	1,466,500	---	3,172,434
2011	---	4,689,854	---	1,505,880	---	3,183,974
2012	---	4,650,647	---	1,499,374	---	3,151,273
2013	---	4,483,241	---	1,400,485	---	3,082,756
2014	---	4,348,089	---	1,409,643	---	2,938,446
2015	---	4,427,911	---	1,400,310	---	3,027,601
2016[1]	---	4,431,691	---	1,409,181	---	3,022,510

Note: No data available before 1996.

--- No data available for participating personnel for 2010-16.

[1] The figures for 2016 are estimates.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter V.C.2.
Clothing Issues and Replacement Allowances

Legislative Authority: 37 U.S.C. §§415–419.

Purpose: To provide clothing, or the commuted value thereof, to enlisted members of the armed forces adequate to enable them to satisfactorily perform their duties, and to reimburse officers for their purchase of required uniforms and equipment.

Background: It is well established that when an individual enlists in an armed force, the government assumes an obligation to clothe (as well as feed and shelter) that individual during the term of service under an enlistment contract. There is no comparable "contractual" obligation with respect to officers. These principles were expressed in the testimony on the bill, H.R. 5007, 81st Cong., 1st sess. (1949), that became the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), as follows:

> Whenever an officer goes into the service, he does so knowing he will be required to subsist himself. Any time a man enlists in the service, the law requires that the Government subsist that man. And, if the Government does not subsist that man, then we will have to reimburse him for that food. Under his contract, they agree to feed him, clothe him, and shelter him. But there is no contract with the officer.[1]

Even though there is no established "contractual" obligation to clothe officers, Congress has from time to time authorized the payment of uniform allowances to them. Until recently, such allowances were payable principally to reserve officers to reimburse them for costs incurred in procuring required uniforms and equipment. Effective September 15, 1981, the payment of an initial uniform allowance in the maximum amount of $200 was authorized for all officers—regular and reserve—by the Defense Officer Personnel Management Act (DOPMA), Pub. L. No. 96-513, §412, 94 Stat. 2835, 2905 (1980). The reason for extending such allowances to regular officers, in addition to the reserve officers and certain other limited classes of officers set out in former 37 U.S.C. §415(e) who were entitled to such allowances before enactment of DOPMA, was to remove provisions felt to be discriminatory against regular officers.[2] The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-150 (2000), increased the initial uniform allowance from $200 to $400 and the additional uniform allowance, paid upon re-entry into active duty after more than two years, from $100 to $200.

Under present law and implementing regulations,[3] [4] members of the armed forces are entitled to the following clothing and uniform allowances:

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[1] *Hearings of March 18, 1949, on H.R. 5007 before Subcommittee No. 2 of the House Armed Services Committee*, 81st Cong., 1st sess., 1667 (1949).

[2] H.R. Rep. No. 96-1462 (Committee on Armed Services), at 111, accompanying S. 1918, 96th Cong., 2d sess. (1980). Section 412 of DOPMA repealed 37 U.S.C. §415(e).

[3] See Chapters 5 and 6 of Part 3 of the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, concerning entitlements to uniform and clothing allowances for enlisted personnel and officers, respectively. Also see 37 U.S.C. §415 as amended by DOPMA and 37 U.S.C. §§416–418, generally.

[4] The clothing allowance authority relative to enlisted members of the armed forces is very broad, allowing the President to "prescribe the quantity and kind of clothing to be furnished annually ... [and to] prescribe the amount of a cash allowance to be paid ... if clothing is not so furnished." See 37 U.S.C. §418. The substance of the clothing allowance provisions relative to enlisted members is, accordingly, found in implementing executive orders and departmental regulations. See, e.g., *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶30502.

* *Regular and Reserve officers* are entitled, by express statutory authority, to the following special clothing allowances:

  (1) *Uniform Allowances*. All officers commissioned or appointed in the regular or reserve components of an armed force are entitled to an initial uniform reimbursement or allowance of $400 on being called to active duty or active duty for training. Officers do not receive an annual clothing replacement or maintenance allowance, however. Reserve officers, officers of the Army or Air Force without component, and ROTC graduates appointed in regular components are entitled to an additional active-duty uniform allowance of not more than $200 each time they enter on active duty for more than 90 days, provided (1) they are not entering upon active duty within two years after completion of a period of active duty of more than 90 days and (2) they have not received an initial uniform reimbursement or allowance of more than $400 within the preceding two years. Prior to enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §663(a), 103 Stat. 1352, 1465 (1989), reserve officers were also entitled to not more than $50 as reimbursement for the purchase of required uniforms and equipment upon completion of each period of four years of service in an active status in one of the reserve components of the armed forces, provided they had not become entitled to a uniform allowance or reimbursement during the preceding four years. The 1990/1991 National Defense Authorization Act, Pub. L. No. 101-189, *id*., repealed this authority, on the recommendation of the Department of Defense, on the grounds that the clothing allowance entitlement for reserve officers was "obsolete."[5] [6]

  Civilian Clothing Allowances. Under amendments to the clothing allowance entitlements provisions made by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §611, 101 Stat. 1019, 1093 (1987), officers of the armed forces assigned to permanent duty stations outside the United States who are required to wear civilian clothing "all or a substantial portion of the time in the performance of ... official duties" may be paid "a civilian clothing allowance" in an amount not to exceed the rates authorized for enlisted members, as set out below.[7] [8]

* *Enlisted members*, under DoD regulations issued pursuant to 37 U.S.C. §418 and Executive Order 10113, as amended, are authorized:

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[5] S. Rep. No. 101-81 (Committee on Armed Services), at 164, accompanying S. 1352, and H.R. Rep. No 101-331 (Committee of Conference), at 591, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

[6] A save-pay provision permitted officers who would, but for repeal of the authority, have become entitled to the $50 allowance in the one-year period following enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §663(b), 103 Stat. 1352, 1465–1466 (1989), to nevertheless receive the allowance. (The 1990/1991 Authorization Act was enacted November 29, 1989.)

[7] The provision of authority to pay officers of the armed forces a civilian clothing allowance was adopted by Congress at the urging of the Department of Defense to enable officers required to wear civilian clothing because of assignment to "high threat overseas areas where the wearing of civilian attire is mandatory" [See S. Rep. No. 100-57 (Committee on Armed Services), at 145, accompanying S. 1174, 100th Cong., 1st sess. (1987), and H.R. Rep. No. 100-446 (Committee of Conference), at 641, accompanying H.R. 1748, 100th Cong., 1st sess. (1987)] to defray the cost of purchasing and maintaining such clothing. As such the officer civilian-clothing allowance authority is quite similar in purpose to the enlisted civilian clothing-allowance authority covered more fully below.

[8] The initial authority to pay an officer civilian-clothing allowance was adopted as an entitlement, but the authority to pay the allowance was made discretionary with the Secretary of Defense by amendments made to 37 U.S.C. §419 by the National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §625, 102 Stat. 1918, 1984 (1988). The amendment was said to have been made in clarification of the original intent underlying adoption of the officer civilian-clothing allowance authority. See H.R. Rep. No. 100-989 (Committee of Conference), at 409, accompanying H.R. 4481, 100th Cong., 2d sess. (1988); *cf*. H.R. Rep. No. 100-753 (Committee of Conference), at 408, accompanying H.R. 4264, 100th Cong., 2d sess. (1988).

(1) *An Initial Clothing Issue or Initial Cash Allowance*, or a combination thereof, to furnish them with uniform and clothing items in the quantities customarily required for wear in their branch of service. The amount of this allowance varies according to service branch and sex. For example, for fiscal year 2018, the initial clothing allowance for an enlisted male in the Army was $1,581.51, while the allowance for a female in the Navy was $2,510.71.

(2) *A Cash Clothing Replacement Allowance*.[9] This replacement allowance is payable to enlisted members annually at the end of their anniversary month of active duty. This allowance is divided into (i) a "basic" replacement allowance, which is intended to defray the cost of replacement of uniquely military items that would normally have to be replaced during the first three years of active duty, and (ii) a "standard" replacement allowance, which is intended to defray the cost of replacement of uniquely military items that would have to be replaced after completion of three years of active duty. Department of Defense Directive 1338.5, March 9, 1998, stipulates that the basic replacement allowance entitlement be 70 percent of the standard allowance. The basic allowance begins to accrue the day after completion of six months of active duty and continues through the end of the 36th month of active duty; in most cases, the standard replacement-allowance entitlement begins on the day following completion of 36 months of active duty. Both allowances are adjusted regularly to account for changing costs; they vary by service branch and the sex of the individual. For example, in 2017 the basic replacement allowance for a male in the Air Force was $245.34, while the allowance for a female in the Navy was $471.60.[10]

Initial and replacement issues and allowances are designed to provide funds for replacement of the clothing and equipment that enlisted personnel require in the performance of their duties under normal conditions. However, such allowances do not cover special circumstances that require a member to possess additional quantities or special items of clothing or wear articles not customarily worn by other enlisted members of the same service. The types of special clothing allowances are as follows:

* *A Special Initial Clothing Allowance* payable to members attaining a status that requires the wearing of individual uniform clothing different from the uniforms customarily required for the majority of enlisted personnel of the same service. Currently, this allowance applies mainly to chief petty officers of the Navy and is payable upon a member's being advanced to that status or when the member first enlists or reenlists in that capacity.

* *A Special Cash Clothing Replacement Allowance* payable to members who have received a special initial clothing allowance. This entitlement accrues on the day following an affected member's completion of 36 months of active duty.

* *A Supplementary Clothing Allowance* payable to enlisted members assigned to specified duties in which they are required to have additional quantities or special items of clothing not normally required for the majority of enlisted personnel of the same armed force. This allowance is applicable to personnel such as recruiters and military police, those regularly assigned as escorts, and those assigned to locations where climatic conditions require special articles of clothing. There is no corresponding replacement allowance for the supplementary clothing allowance.

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[9] Formerly, in addition to initial clothing issues and allowances enlisted members of the armed forces received allowances referred to as "clothing maintenance allowances." This terminology has been changed, and enlisted members now receive "clothing replacement allowances." As provided in Paragraph 30501 of the *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, this allowance is "authorized for replacement of clothing." The changes in question were all made administratively, without any need for congressional action.

[10] Department of Defense, Defense Finance and Accounting Service, "Military Pay," http://www.dfas.mil/money/milpay.

* *A Civilian Clothing Allowance* payable to members who are required to wear civilian clothing in the performance of their official duties. Examples include intelligence or counterintelligence duties, and duty in a foreign country where the host government prohibits or discourages the wearing of uniforms by non-indigenous military or naval personnel. As of October 1, 2017, the initial payment of this allowance was $1,062.00, followed by an annual replacement payment of $354.24. For temporary duty of 15 days in any 30-day period, the allowance was $354.24, and for temporary duty of 30 days in a 36-month period the allowance was $708.12.

Cost: For the cost of clothing allowances from 1972 to 2016, see tables V-3A–3G, below.

Table V-3A. Officers' Initial Uniform Allowance, 1972–2016

Fiscal Year	Personnel	Cost ($000)
1972	30,759	$5,733
1973	27,765	5,185
1974	23,329	4,370
1975	22,584	4,241
1976	21,104	3,945
1977	20,390	3,713
1978	21,067	3,813
1979	23,318	4,085
1980	23,252	3,891
1981	22,509	3,826
1982	26,935	5,002
1983	29,180	5,461
1984	28,589	5,392
1985	28,713	5,742
1986	26,135	5,228
1987	22,511	4,503
1988	22,975	4,596
1989	24,778	4,955
1990	21,791	4,357
1991	38,886	7,777
1992	17,327	3,466
1993	16,494	3,299
1994	17,252	3,452
1995	17,545	3,508
1996	15,820	3,164
1997	17,844	3,569
1998	17,257	3,451
1999	16,995	3,399
2000	18,399	3,680
2001	18,692	7,021
2002	21,315	8,105
2003	24,103	9,642
2004	16,637	6,655
2005	21,970	9,143
2006	16,573	6,638
2007	18,330	7,340
2008	15,941	6,366
2009	37,773	15,115
2010	18,509	7,409
2011	23,546	9,423

Fiscal Year	Personnel	Cost ($000)
2012	20,492	8,197
2013	18,515	7,122
2014	19,601	7,840
2015	19,671	7,868
2016[1]	18,754	7,502

–[1] The figures for 2016 are estimates.

Note: Sources for tables V-3A–3G are given at the base of table V-3G.

Table V-3B. Officers' Additional Uniform Allowance, 1972–2016

Fiscal Year	Personnel	Cost ($000)
1972	29,801	$2,981
1973	26,368	2,645
1974	21,417	2,142
1975	21,723	2,172
1976	20,454	2,046
1977	20,153	2,015
1978	19,838	1,984
1979	20,010	2,001
1980	19,644	1,965
1981	24,010	2,401
1982	20,883	2,088
1983	22,112	2,211
1984	21,514	2,151
1985	22,730	2,273
1986	21,638	2,165
1987	19,251	1,925
1988	18,309	1,830
1989	21,979	2,199
1990	19,860	1,986
1991	36,548	3,656
1992	14,881	1,488
1993	13,941	1,394
1994	14,608	1,461
1995	15,145	1,514
1996	14,265	1,426
1997	16,334	1,633
1998	15,654	1,566
1999	16,309	1,631
2000	17,540	1,754
2001	15,769	3,154
2002	19,462	3,935
2003	30,556	6,112
2004	18,693	3,739
2005	4,933	873
2006	8,476	1,695
2007	15,951	3,190
2008	21,003	4,212
2009	30,992	6,198

Fiscal Year	Personnel	Cost ($000)
2010	17,154	3,431
2011	8,901	1,781
2012	8,709	1,742
2013	8,106	1,621
2014	8,094	1,619
2015	7,677	1,535
2016[1]	6,645	1,329

–[1] The figures for 2016 are estimates.

Note: Sources for tables V-3A–3G are given at the base of table V-3G.

Table V-3C. Enlisted Members' Initial Clothing Allowance, 1972–2016

Fiscal Year	Personnel	Cost ($000)
1972	512,921	$100,409
1973	553,718	120,542
1974	448,824	112,611
1975	483,926	132,671
1976	446,658	137,970
1977	421,356	141,867
1978	345,562	127,968
1979	351,176	129,376
1980	485,945	192,572
1981	373,520	163,594
1982	346,737	187,553
1983	337,761	190,907
1984	338,621	183,383
1985	319,843	154,694
1986	341,187	171,407
1987	320,684	172,432
1988	288,970	169,945
1989	299,260	185,746
1990	252,111	173,378
1991	---	174,897
1992	---	183,834
1993	---	206,939
1994	---	164,990
1995	---	158,472
1996	185,361	169,804
1997	141,214	185,244
1998	193,360	207,314
1999	194,396	200,429
2000	206,090	236,291
2001	198,828	232,579
2002	203,565	238,301
2003	184,767	218,699
2004	188,150	232,655
2005	161,250	194,249
2006	229,489	287,798

Fiscal Year	Personnel	Cost ($000)
2007	245,167	316,688
2008	213,405	250,312
2009	187,645	289,024
2010	161,412	238,958
2011	166,320	247,621
2012	170,547	257,630
2013	139,011	209,488
2014	150,006	246,862
2015	157,333	260,777
2016[1]	163,124	273,490

--- No data available.

–[1] The figures for 2016 are estimates.

Note: Sources for tables V-3A–3G are given at the base of table V-3G.

Table V-3D. Enlisted Members' Replacement Clothing Allowances, 1972–2016*

Fiscal Year	Personnel	Cost ($000)
1972	1,816,369	$119,816
1973	1,749,413	119,701
1974	1,711,255	136,642
1975	1,650,871	142,096
1976	1,645,430	145,734
1977	1,565,081	112,187
1978	1,591,536	123,285
1979	1,573,971	112,117
1980	1,562,239	127,548
1981	1,570,848	155,511
1982	1,642,909	185,625
1983	1,656,289	192,094
1984	1,669,507	188,772
1985	1,720,503	183,726
1986	1,649,277	168,371
1987	1,649,811	230,099
1988	1,652,351	256,808
1989	1,696,090	289,665
1990	1,609,462	324,906
1991	1,639,973	385,915
1992	1,604,145	402,862
1993	1,444,687	361,064
1994	1,331,632	331,644
1995	1,289,216	313,765
1996	1,187,516	312,127
1997	1,160,112	324,498
1998	1,135,101	346,603
1999	1,102,987	326,128
2000	1,093,270	353,932
2001	1,092,602	363,312

Fiscal Year	Personnel	Cost ($000)
2002	1,103,152	562,471
2003	1,108,762	362,479
2004	1,169,338	423,243
2005	1,228,354	453,653
2006	1,001,898	394,326
2007	1,019,007	376,463
2008	931,090	502,250
2009	1,154,748	588,836
2010	1,103,444	542,335
2011	1,146,788	516,363
2012	1,150,986	471,740
2013	1,094,042	455,836
2014	1,060,439	436,045
2015	1,053,959	429,095
2016[1]	1,011,611	420,227

* Includes Basic, Standard, and Special Cash Clothing Maintenance Allowance.

–[1] The figures for 2016 are estimates.

Note: Sources for tables V-3A–3G are given at the base of table V-3G.

Table V-3E. Enlisted Members' Civilian Clothing Allowance, 1972–2016

Fiscal Year	Personnel	Cost ($000)
1972	4,773	$1,096
1973	3,607	817
1974	2,208	526
1975	2,278	556
1976	2,138	519
1977	2,883	655
1978	3,183	704
1979	3,242	1,324
1980	3,548	1,585
1981	6,429	2,511
1982	4,858	2,714
1983	4,556	2,556
1984	5,601	2,959
1985	5,635	3,236
1986	6,052	3,739
1987	6,412	4,050
1988	6,241	3,985
1989	6,224	4,214
1990	7,642	5,558
1991	---	6,813
1992	---	6,671
1993	---	7,029
1994	---	6,594
1995	---	5,426
1996	6,361	5,727

Fiscal Year	Personnel	Cost ($000)
1997	6,124	5,754
1998	6,322	5,740
1999	7,986	6,103
2000	10,257	7,435
2001	9,153	6,666
2002	9,348	6,160
2003	8,301	5,845
2004	5,278	4,758
2005	13,429	9,657
2006	14,226	9,734
2007	10,802	7,826
2008	10,557	8,319
2009	7,233	6,828
2010	7,482	7,101
2011	9,612	6,562
2012	8,655	6,493
2013	10,013	6,765
2014	7,256	6,657
2015	7,476	7,141
2016[1]	7,143	6,918

--- No data available.

–[1] The figures for 2016 are estimates.

Note: Sources for tables V-3A–3G are given at the base of table V-3G.

Table V-3F. Enlisted Members' Supplementary Clothing Allowance, 1972–2016

Fiscal Year	Personnel	Cost ($000)
1972	---	$9,406
1973	---	8,361
1974	---	7,872
1975	---	11,580
1976	---	11,668
1977	---	4,224
1978	---	4,102
1979	---	3,513
1980	---	3,796
1981	---	4,155
1982	---	5,710
1983	---	6,423
1984	---	7,317
1985	---	6,663
1986	---	7,083
1987	---	6,800
1988	---	7,829
1989	---	8,184
1990	---	8,437
1991	---	129,324
1992	---	9,581

Fiscal Year	Personnel	Cost ($000)
1993	---	8,141
1994	---	7,270
1995	---	7,729
1996	24,439	7,566
1997	21,616	7,205
1998	7,732	4,322
1999	23,296	8,742
2000	20,972	9,202
2001	24,233	10,427
2002	19,611	15,794
2003	25,203	20,093
2004	41,472	27,120
2005	16,489	16,363
2006	34,879	37,183
2007	21,445	20,558
2008	45,305	29,780
2009	21,199	18,722
2010	24,680	69,714
2011	26,377	15,279
2012	21,954	11,275
2013	20,419	20,134
2014	26,405	14,464
2015	24,523	7,673
2016[1]	23,949	7,511

--- No data available.

–[1] The figures for 2016 are estimates.

Note: Table V-3F does not include *Personnel* for the Army from FY2009 to FY2014 and from FY2015 to FY2016 does not include both *Personnel* and *Cost*.

Note: Sources for tables V-3A–3G are given at the base of table V-3G.

Table V-3G. Total Clothing Allowances—All Authorized Personnel, 1972–2016

Fiscal Year	Personnel	Cost ($000)
1972		$239,441
1973		257,251
1974		264,163
1975		293,316
1976		301,882
1977		264,661
1978		261,856
1979		252,416
1980		331,357
1981		331,998
1982		388,692
1983		399,652
1984		389,974

Fiscal Year	Personnel	Cost ($000)
1985		356,334
1986		357,993
1987		419,809
1988		444,993
1989		494,963
1990		518,622
1991		708,382
1992		607,902
1993		587,866
1994		515,411
1995		490,414
1996		500,254
1997		527,903
1998		572,506
1999		546,432
2000		613,954
2001		623,159
2002		836,845
2003		732,070
2004		688,490
2005		683,938
2006		737,374
2007		732,065
2008		801,239
2009		924,723
2010		868,948
2011		797,029
2012		757,077
2013		700,966
2014		713,487
2015		714,089
2016[1]		716,977

–[1] The figures for 2016 are estimates.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter V.C.3.
Overseas Station Allowances

Legislative Authority: 37 U.S.C. §475[1], 403(c)

Purpose: To help defray the additional costs for food, housing, lodging, and related incidental expenses incurred by members of the uniformed services and their dependents as a result of assignment to permanent duty outside the United States.

Background: "Overseas station allowances" is the collective title of the payment authorized by law as "a per diem, considering all elements of the cost of living to members ... and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses, to ... a member who is on duty outside of the United States or in Hawaii or Alaska, whether or not he is in a travel status." [See 37 U.S.C. §475(a, b).] This per diem now consists of three main components: (1) a housing allowance; (2) a cost-of-living allowance; and (3) a temporary-lodging allowance.

Authority to pay overseas station allowances to military personnel was initially granted with a minimum of congressional review and with little congressional expression as to the purpose to be served. The origin of the allowances is traceable to a provision in the Act of July 2, 1942 (Military Appropriation Act for Fiscal Year 1943), ch. 477, Pub. L. No. 77-649, §1, 56 Stat. 611 (1942), which authorized the expenditure of funds appropriated for "Contingencies of the Army" for the "actual and necessary expenses or per diem in lieu thereof as may be determined and approved by the Secretary of War, of military and civilian personnel in and under the Military Establishment on special duty in foreign countries." The Second Supplemental National Defense Appropriation Act, 1943, ch. 629, Pub. L. No. 77-763, §102, 56 Stat. 990, 993 (1942), provided that Navy appropriations for fiscal year 1943 were available to make similar payments to military and civilian personnel of the naval establishment. A Navy representative explained the need for overseas allowances in these terms:

> ... The reason it is necessary to make provision for these personnel is that the cost of living in many places abroad has risen steeply and rapidly. It is estimated that in London the average rental costs are about 63 percent higher than in Washington, and other costs are about 41 percent higher.... In Chun[g]king, China, the costs of everything are reported by our naval attaché as rising vertically. Rentals are high, but food is higher. A State Department estimate in July indicates that rental was 123 percent higher than in Washington and it is understood that the State Department is granting special allowances to their personnel assigned to Chun[g]king....[2]

In the years immediately following fiscal year 1943, the expenditure of funds for station allowances was authorized in annual appropriations acts for personnel on special duty in foreign countries under the headings "Travel of the Army" and, for the Navy, "Transportation and Recruiting." It was brought to the attention of the Navy in connection with its 1946 appropriation bill that the bill requested funds for a number of items for which there was no authority in permanent law. Since such items were subject to a point of order, even though the appropriations had in the past been made without a point of order having been raised, it was suggested that the Navy take action to obtain permanent authority for them. The result was proposed legislation introduced as S. 1917, 79th Cong., 2d sess. (1946). As passed by the Senate, the bill did not address overseas station allowances. A Title II was, however, later added to the bill by the House, and this title did deal with such allowances. Among other things, it authorized payment of actual and necessary cost-

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[1] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle D, Sec. 631, 125 Stat. 1298, 1452-1465 (2011).

[2] *Hearings before a Subcommittee of the House Appropriations Committee on the Second Supplemental National Defense Appropriation Bill for 1943*, 77th Cong., 2d sess., 93–94 (1942). The representative went on to list 37 other foreign countries in which rental or other living costs were 25 percent or more in excess of Washington rates.

of-living expenses, or a per diem in lieu thereof, to members of the armed forces on duty "outside the continental United States or in Alaska." Though Title II was rather broad in scope and affected all branches of service, the hearings on it were brief, and a single Navy officer was the only person who testified in favor of passage. The Naval Affairs Committee explained its addition of Title II thusly:

> The eighth committee amendment would add Title II to the bill. This title consists of amendments to the Pay Readjustment Act. The general authority to make the payments authorized in Title II have been contained from time to time in the Naval Appropriation Acts and in the Appropriations Acts for the other armed services. It appears appropriate to codify these legislative provisions as amendments to the Pay Readjustment Act. They embody no substantial changes from the authority which has been carried for several years in appropriation measures.[3]

As amended by the addition of so-called Title II, S. 1917 was adopted in the Act of August 2, 1946, ch. 756, Pub. L. No. 79-604, §203, 60 Stat. 853, 859 (1946), entitled "An Act to enact certain provisions now included in the Naval Appropriation Act, 1946, and for other purposes," thus creating the first permanent overseas station allowances authority for all branches of service. Despite what was said in the House report, the 1946 act made a fairly substantial change in the conditions of eligibility for station allowances, since it permitted payments to personnel on duty "outside the continental United States or in Alaska," whereas the appropriation acts had authorized payment only to those on duty in "foreign countries."

Section 303(b) of H.R. 5007, 81st Cong., 1st sess. (1949), the bill later enacted as the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §303(b), 63 Stat. 802, 814 (1949), restated this authority for station allowances but in somewhat different terms. It established overseas station allowances as per diem payments, thereby withdrawing the previously existing authority to defray actual expenses. Further, it expressly provided that the extra living costs experienced overseas by dependents, as well as by members themselves, be included in computing the amount of the allowance entitlement. The proposed modifications to the overseas station allowances received scant attention in both House and Senate hearings.[4]

Section 303(b) of H.R. 5007, 81st Cong., 1st sess. (1949), was enacted in the Career Compensation Act of 1949, ch. 681, *id*., exactly as initially drafted, and it is the source of the existing provisions for an overseas station allowance in Title 37, United States Code.[5] As enacted, the law authorized the payment of overseas station allowances under regulations to be prescribed by the Secretaries of the various services. Since the law classifies overseas station allowances as "travel and transportation" allowances, the Secretarial regulations are prescribed in the Joint Travel Regulations (JTR). The JTR divides station allowances into three main components: (1) a housing allowance, frequently referred to as overseas housing allowance (OHA), designed to assist a member in defraying the housing costs incurred incident to assignment to a PDS outside the U.S, based on data from the overseas commands; (2) a cost-of-living allowance (COLA) designed to offset higher overseas costs of goods and services other than housing in excess of similar costs in the United States, also to be based on data gathered by overseas commands and the State Department; and (3) a temporary-lodging allowance (TLA) designed to partially reimburse members for the more than normal expenses incurred by a member/dependent(s) while occupying temporary lodging outside the Continental United States. An interim housing allowance, designed to reimburse a member for expenses incurred for renting non-government family housing before arrival of the

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[3] H.R. Rep. No. 2549 (Committee on Naval Affairs), at 11, accompanying S. 1917, 79th Cong., 2d sess. (1946).

[4] See, e.g., *Hearings before a Subcommittee of the House Armed Services Committee on H.R. 2553*, 81st Cong., 1st sess., 280 (1949); and *Hearings before the Senate Armed Services Committee on H.R. 5007*, 81st Cong., 1st sess., 280 (1949).

[5] Section 303(b) of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §303(b), 63 Stat. 802, 814 (1949), was classified to 37 U.S.C. §253(b). See 37 U.S.C. §253(b) (1952). Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the overseas station allowance provisions were codified at 37 U.S.C. §405, *id*., 76 Stat. 473.

member's dependents at a new permanent duty station, formerly was a separate fourth component but has been combined with the overseas housing allowance. The amount of these different allowances varies geographically because the excess costs on which they are based vary from one foreign locality to another. The OHA and COLA also include intra-pay-grade differentials for each locality, on the theory that a member's standard of living is related to the member's level of income. And, because expenses of dependents are to be taken into account in determining the level of the allowances, the overseas housing allowance contains a within-grade differential based on dependency status, and the COLA contains a series of within-grade differentials based on number of dependents.

In December 1967, the Comptroller General of the United States ruled that the JTR method of using basic allowance for quarters (BAQ) as the basis for computing OHA did not conform to the law, because BAQ purportedly represented a lesser amount than average housing costs in the United States, and its use therefore overstated the excess cost of overseas housing by the difference between BAQ and actual United States housing costs. The Comptroller General further ruled that the JTR practice of fixing the overseas housing allowance and COLA components of the overseas station allowance independently of each other did not comply with the law, which required that the total allowance (housing plus cost of living) be based on overall costs. Hence, if either housing or living costs were less in any overseas area than in the United States, the excess costs in the applicable component had to be reduced by the cost "savings" in the other component, at least under the Comptroller General's theory.

Disagreeing with this interpretation, the Department of Defense requested that Congress review the question of overseas station allowances in general and the level at which they were fixed in particular. Congress having agreed to such a review, implementation of the Comptroller General's decision was deferred pending hearings. After completion of its review, Congress adopted the Act of October 22, 1970, Pub. L. No. 91-486, 84 Stat. 1085 (1970), which validated the system used by the Secretaries of the military departments to compute overseas housing and cost-of-living allowances and added a provision to remove any doubt about the propriety of such computational methods.

The overseas station allowance received further attention in the Department of Defense Authorization Act, 1985, Pub. L. No. 98-525, §602(e), 98 Stat. 2492, 2536 (1984). Before January 1, 1985, all manifestations of overseas station allowances, specifically including overseas housing allowances, were available to armed forces personnel stationed in Alaska and Hawaii—as well as to personnel stationed in Tokyo, London, Rome, etc. Without disturbing other aspects of the program, the 1985 Authorization Act withdrew entitlements to OHA from armed forces personnel stationed in Alaska and Hawaii. At the same time as authority to make OHA payments to armed forces personnel in Alaska and Hawaii was being withdrawn, however, authority to make variable housing allowance (VHA) payments was being extended.

The 1985 Department of Defense Authorization Act, Pub. L. No. 98-525, *id*., made substantial amendments to the VHA program previously in effect. Among other things, these changes created a totally new statutory provision—37 U.S.C. §403a—for dealing with VHA generally. [See Chapter II.B.2., "Housing Allowances," above.] Among other things, the amendments to the VHA program *qua* VHA[6] were intended, and expected, to save substantial amounts of money for the federal treasury.[7] In proposing amendments to the VHA program, both the original House and Senate bills—H.R. 5167 and S. 2723, respectively, 98th Cong., 2d sess. (1984)—recommended that members of the armed forces stationed in Alaska and Hawaii be made eligible for VHA in lieu of OHA.[8] The provision in question was deleted in

[6] That is, to the VHA program without regard to any other programs, such as the overseas station allowances program.
[7] See, e.g., H.R. Rep. No. 98-691 (Committee on Armed Services), at 290, 292, accompanying H.R. 5167, and S. Rep. No. 98-500 (Committee on Armed Services), at 435, 436, accompanying S. 2723, 98th Cong., 2d sess. (1984).
[8] See, e.g., H.R. Rep. No. 98-691 (Committee on Armed Services), at 256, accompanying H.R. 5167, and S. Rep. No. 98-500 (Committee on Armed Services), at 205, accompanying S. 2723, 98th Cong., 2d sess. (1984).

Senate floor action but was restored in conference.[9] The reason for substituting VHA authority for OHA in Alaska and Hawaii is not clearly articulated anywhere in the legislative history of the 1985 Authorization Act.

While the 1985 Authorization Act, Pub. L. No. 98-525, *id*., changed the OHA program as applied to members of the armed forces stationed in Alaska and Hawaii, it did not affect other aspects of the overseas station allowance program for such personnel. [Compare, e.g., 37 U.S.C. §405(a) ("[T]he Secretaries may authorize the payment of a per diem ... to ... a member who is on duty outside of the United States or in Hawaii or Alaska.") with 37 U.S.C. §405(b) ("A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska.").] Thus, the only overseas station allowance not available to armed forces personnel stationed in Alaska and Hawaii is OHA.

Pursuant to the Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, §807, 93 Stat. 803, 813–14 (1979), the Secretaries of the various military departments were granted discretionary authority to pay OHA in advance. As explained in the relevant congressional report, the reason for the adoption of advance-payment authority was to enable affected members to meet the added costs that OHA was intended to defray at the time the expenses were incurred "in order to minimize the financial impact on service members assigned to high-cost overseas areas."[10]

The National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §622, 103 Stat. 1352, 1446–1447 (1989), prospectively amended the overseas station allowance program to authorize, effective September 1, 1990, the Secretaries of the various military departments to make up-front, lump-sum payments "for nonrecurring expenses incurred by the member in occupying private housing outside the United States." In effect, the new authority extended to any housing-related costs that might be incurred by a member occupying housing overseas, independently of when the costs may be incurred. As explained by the House–Senate Conference Committee:

> The House bill contained a provision ... that would authorize the lump-sum payment for the nonrecurring up-front costs incurred by military service members moving into private housing overseas. The provision would apply with respect to expenses incurred after August 31, 1990.
>
> . . .
>
> The amendment would expand lump-sum payment authority to other than initial housing costs, for example, modification to protect against a terrorist threat.[11]

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[9] See H.R. Rep. No. 98-1080 (Committee of Conference), at 295, accompanying H.R. 5167, 98th Cong., 2d sess. (1984).

[10] H.R. Rep. No. 96-166 (Committee on Armed Services), at 139, accompanying H.R. 4040, 96th Cong., 1st sess. (1979).

[11] H.R. Rep. No. 101-331 (Committee of Conference), at 586, accompanying H.R. 2461, 101st Cong., 1st sess. (1989). Also see H.R. Rep. No. 101-121 (Committee on Armed Services), at 276, accompanying H.R. 2461, 101st Cong., 1st sess. (1989):

> ... Many amenities to which Americans are accustomed when moving into a new residence, such as light fixtures, kitchen cabinets and basic appliances like stoves or refrigerators are frequently not provided by foreign landlords.
>
> As a result, service members moving into off-base quarters overseas are often faced with substantial up-front cash outlays just to make housing facilities livable. In addition, service members must pay a large finder's fee or other charges in some areas to local realtors in order to locate housing or obtain utility service. Currently, reimbursement for these up-front overseas housing costs is amortized over the life of the overseas tour in monthly OHA payments. Under the OHA system, service members cannot receive a lump-sum payment for up-front costs because current law only authorizes such payments on a per diem basis. The committee recognizes that in situations where overseas tours are cut short and because of the low value of the dollar against some foreign currencies, many service members never fully recover these expenditures. In addition, many lower ranking personnel must go into substantial debt to buy these

Pursuant to amendments to the overseas station allowance program made by the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §622(a), 107 Stat. 1547, 1683 (1993), the category of "nonrecurring expenses" for which lump-sum payments were authorized was expanded to include any losses sustained by a member on the refund of a rental deposit (or other deposit made by a member to secure housing) as a result of currency fluctuations.[12]

The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1776 (1997), effectively changed the computation of OHA. Prior to 1997, 37 U.S.C. §405 defined the "station housing allowance" as the difference between BAQ and the actual cost of housing in the location of assignment. This formula was eliminated when Pub. L. No. 105-85 consolidated the BAQ with OHA, creating a single allowance that varies according to local costs. [See Chapter II.B.2, "Housing Allowances," above.]

Current allowance authorized: The OHA rate authorized varies from country to country, depending on the local cost of housing and the special types of nonrecurring expenses that may be encountered in the country in question. Without regard to nonrecurring expenses for which reimbursement is authorized, in 2016 basic monthly overseas rental allowance rates for representative locations were: for an O-1 with dependents, $1,053 in Veracruz, Mexico; $2,669 in Manila, the Philippines; $4,356 in Geneva, Switzerland, and $7,024 in Tokyo, Japan.[13]

Overseas COLA is intended to equalize purchasing power so that service members can purchase the same level of goods and services overseas as they could if they were stationed in the Continental United States (CONUS). The COLA index is a measured indicator of the differences in the cost of goods and services between the CONUS average and an overseas location. The index takes into consideration the relative importance of items such as car insurance, gasoline, and day care to ensure that more dollar significance is placed on these items. An index of 100 or higher means that prices in a particular location are equal or higher than in CONUS; an index below 100 signifies that prices are less expensive than in CONUS.

Cost: For the cost of overseas station allowances since 1972, see tables V-4A–D, below.

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essential items. As an outgrowth of this concern, [the amendment] would authorize a lump sum [sic] payment for the nonrecurring up-front costs of moving into private overseas housing, effective September 1, 1990. In providing this authorization, the committee expects that the services will require military members to account for their actual expenses by furnishing receipts or other evidence so that the amount of this payment will not exceed the actual amount of incurred expenses.

[12] See H.R. Rep. No. 103-200 (Committee on Armed Services), at 295, accompanying H.R. 2401; S. Rep. No. 103-112 (Committee on Armed Services), at 155, accompanying S. 1298; and H.R. Rep. No. 103-357 (Committee of Conference), at 684, accompanying H.R. 2401, 103d Cong., 1st sess. (1993).

[13] Defense Travel Management Office, "OHA Calculator," http://www.defensetravel.dod.mil/site/ohaCalc.cfm.

Table V-4A. Overseas Housing Allowance, 1972–1998

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	---	$40,284	---	$9,962	---	$30,322
1973	---	51,001	---	12,474	---	38,527
1974	102,916	83,074	17,005	19,659	85,911	63,415
1975	92,491	97,311	17,380	23,896	75,111	73,415
1976	105,380	98,104	16,840	23,432	88,540	74,672
1977	90,034	86,792	14,672	22,384	75,362	64,408
1978	97,653	117,155	15,859	25,985	81,794	91,170
1979	106,290	162,429	16,491	31,079	89,799	131,350
1980	109,956	189,215	17,236	34,756	92,720	154,459
1981	127,911	169,237	17,205	31,342	110,706	137,895
1982	89,888	124,384	11,199	27,087	78,689	97,297
1983	89,345	193,788	13,042	40,321	76,303	153,467
1984	94,519	233,750	14,564	51,953	79,955	181,797
1985	105,901	228,233	16,841	51,819	89,060	176,414
1986	124,266	299,365	22,282	71,504	101,984	227,861
1987	123,726	368,784	23,394	90,375	100,332	278,409
1988	122,008	436,127	22,680	107,378	99,328	328,749
1989	112,827	354,819	21,113	86,193	91,714	268,626
1990	99,508	393,214	19,376	93,018	80,132	300,196
1991	88,630	394,419	17,555	102,713	71,075	291,706
1992	68,353	333,701	15,344	96,820	53,009	236,881
1993	58,627	295,501	13,237	83,014	45,390	212,487
1994	50,755	287,661	11,690	77,923	39,065	209,738
1995	48,271	339,364	10,991	94,440	37,280	244,924
1996	46,759	316,147	11,494	94,416	35,265	221,731
1997	46,330	292,723	11,570	87,816	34,760	204,907
1998*	36,247	69,520	8,231	19,076	28,016	50,444

Note: Effective January 1, 1998, Overseas Housing Allowance (OHA) was linked to BAH and is now displayed in the BAH exhibit. OHA has been renamed BAH Overseas and includes the former BAQ allowance paid to overseas members.

--- No data available.

Table V-4B. Cost of Living Allowance, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	---	$71,521	---	$18,933	---	$52,588
1973	---	55,241	---	16,234	---	39,007
1974	110,294	59,349	23,516	16,491	86,778	42,858
1975	167,824	72,304	35,508	19,036	132,316	53,268
1976	165,553	71,703	33,465	18,385	131,088	53,418
1977	176,374	81,025	35,136	20,449	141,238	60,576
1978	207,506	154,489	39,751	35,058	167,755	119,431

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1979	229,762	217,813	41,003	47,544	188,759	170,269
1980	244,885	179,046	42,077	37,294	202,808	141,752
1981	207,693	143,349	36,038	30,271	171,655	113,078
1982	234,630	125,916	30,081	24,417	204,549	101,499
1983	279,155	133,186	32,431	24,398	246,724	108,788
1984	149,831	116,946	20,239	21,645	129,592	95,301
1985	151,668	117,304	19,941	26,654	131,727	90,650
1986	429,992	245,714	46,594	52,145	383,398	193,569
1987	461,597	526,425	51,446	108,199	410,151	418,226
1988	468,242	742,394	51,584	149,414	416,658	592,980
1989	466,413	645,125	51,459	130,705	414,954	514,420
1990	458,550	768,341	52,780	160,273	405,770	608,068
1991	449,915	982,032	49,269	204,571	400,646	777,461
1992	400,284	1,033,193	47,434	212,894	352,850	820,299
1993	358,110	967,704	44,237	206,787	313,873	760,917
1994	312,896	972,650	39,409	206,435	273,487	766,215
1995	298,826	1,136,440	38,576	243,134	260,250	893,306
1996	285,587	1,001,746	37,927	220,704	247,660	781,042
1997	279,062	892,826	37,979	196,409	241,083	696,417
1998	272,516	701,773	34,666	141,542	237,850	560,231
1999	267,634	777,087	37,086	172,172	230,548	604,915
2000	181,993	587,844	31,953	168,775	150,040	419,069
2001	211,373	690,498	29,464	156,319	181,909	534,179
2002	175,634	754,309	36,128	171,258	139,506	583,051
2003	252,571	947,771	34,511	261,537	218,060	686,234
2004	288,464	1,674,898	53,353	516,188	235,111	1,158,710
2005	272,340	1,667,490	37,982	405,923	234,358	1,261,567
2006	361,892	1,648,981	55,430	422,478	306,462	1,226,503
2007	248,361	1,267,541	36,622	406,944	211,739	860,597
2008	241,384	1,651,389	36,347	424,331	205,037	1,227,058
2009	227,668	1,522,719	37,849	387,620	189,819	1,135,099
2010	244,328	1,571,474	37,064	411,110	207,264	1,160,364
2011	237,030	1,772,632	37,526	467,671	199,504	1,304,961
2012	227,546	1,744,109	37,710	436,862	189,836	1,307,247
2013	222,840	1,679,192	37,351	432,977	185,489	1,246,215
2014	212,471	1,777,336	35,743	443,262	176,728	1,334,074
2015	208,161	1,355,711	37,151	368,564	171,010	987,147
2016[1]	209,540	1,385,852	38,618	383,882	170,922	1,001,970

--- No data available.

[1] The figures for 2016 are estimates.

Note: Sources for tables V-4B–D are given at the base of table V-4D

Table V-4C. Temporary Lodging Allowance, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	---	$36,287	---	$12,694	---	$23,593
1973	---	37,499	---	10,329	---	27,170
1974	90,474	29,721	19,495	6,779	70,979	22,942
1975	83,371	33,200	19,600	7,991	63,771	26,209
1976	85,825	45,805	20,721	20,754	65,104	25,051
1977	83,743	33,231	19,588	8,492	64,155	24,739
1978	76,012	39,596	18,154	9,770	57,858	29,826
1979	97,357	54,594	25,336	13,293	71,821	41,301
1980	105,392	67,867	27,385	15,911	78,007	51,956
1981	---	73,318	---	21,796	---	51,522
1982	---	82,806	---	18,150	---	64,656
1983	---	86,934	---	18,954	---	67,980
1984	---	76,058	---	19,760	---	56,298
1985	---	83,274	---	20,319	---	62,955
1986	---	108,245	---	25,500	---	82,745
1987	---	135,565	---	32,298	---	103,267
1988	---	133,939	---	31,770	---	102,169
1989	---	132,124	---	33,166	---	98,958
1990	---	130,445	---	32,001	---	98,444
1991	---	129,099	---	37,178	---	91,921
1992	---	165,802	---	40,030	---	125,772
1993	---	144,931	---	34,908	---	110,023
1994	---	126,073	---	27,632	---	98,441
1995	---	121,413	---	31,143	---	90,270
1996	137,326	112,826	27,194	28,148	110,132	84,678
1997	147,429	121,821	28,921	31,395	118,508	90,426
1998	145,772	116,285	26,842	29,012	118,930	87,273
1999	129,234	114,877	25,435	31,084	103,799	83,793
2000	126,580	104,307	23,590	29,296	102,990	75,011
2001	129,705	102,527	24,044	27,048	105,661	75,479
2002	115,009	97,998	19,981	24,743	95,028	73,255
2003	168,867	117,039	32,791	31,192	136,076	85,847
2004	138,646	97,016	30,021	27,799	108,625	69,217
2005	231,979	170,334	32,999	39,965	198,980	130,369
2006	168,465	133,882	33,047	37,483	135,418	96,399
2007	97,523	113,392	23,705	35,415	73,818	77,977
2008	102,864	142,468	24,492	44,627	78,372	97,841
2009	105,620	147,806	23,631	44,805	81,989	103,001
2010	112,419	165,156	27,812	53,365	84,607	111,791
2011	116,092	192,775	30,176	62,029	85,916	130,746
2012	112,579	197,086	29,629	63,547	82,950	133,539
2013	121,941	209,074	30,168	63,237	91,773	145,837
2014	121,878	202,320	30,497	63,717	91,381	138,603

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2015	126,067	182,970	29,622	48,024	96,445	134,946
2016[1]	170,715	214,106	75,120	84,422	95,595	129,684

--- No data available. [1] The figures for 2016 are estimates.

Note: Sources for tables V-4B–D are given at the base of table V-4D

Table V-4D. Total Overseas Station Allowances, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	---	$148,092	---	$41,589	---	$106,503
1973	---	143,741	---	39,037	---	104,704
1974	303,684	172,144	60,016	42,929	243,668	129,215
1975	343,686	202,815	72,488	50,923	271,198	152,892
1976	356,758	215,612	71,026	62,471	384,732	153,141
1977	350,151	201,048	69,396	51,325	280,755	149,723
1978	381,171	311,240	73,764	70,813	307,407	240,427
1979	433,409	434,836	82,830	91,916	350,379	342,920
1980	460,233	436,128	86,698	87,961	373,535	348,167
1981	---	385,904	---	83,409	---	302,495
1982	---	333,106	---	69,654	---	263,452
1983	---	413,908	---	83,673	---	330,235
1984	---	---	---	93,358	---	---
1985	---	428,811	---	98,792	---	330,019
1986	---	653,324	---	149,149	---	504,175
1987	---	1,030,774	---	230,872	---	799,902
1988	---	1,312,460	---	288,562	---	1,023,898
1989	---	1,132,068	---	250,064	---	882,004
1990	---	1,292,000	---	285,292	---	1,006,708
1991	---	1,505,550	---	344,462	---	1,161,088
1992	---	1,532,696	---	349,744	---	1,182,952
1993	---	1,501,051	---	324,709	---	1,176,342
1994	---	1,386,384	---	311,990	---	1,074,394
1995	---	1,597,217	---	368,717	---	1,228,500
1996	469,672	1,430,719	76,615	343,268	393,057	1,087,451
1997	472,821	1,307,370	78,470	315,620	394,351	991,750
1998	454,535	887,578	69,739	189,630	384,796	697,948
1999	396,868	891,964	62,521	203,256	334,347	688,708
2000	308,573	692,151	55,543	198,071	253,030	494,080
2001	341,078	793,025	53,508	183,367	287,570	609,658
2002	290,643	852,307	56,109	196,001	234,534	656,306
2003	421,438	1,064,810	67,302	292,729	354,136	772,081
2004	427,110	1,771,914	83,374	543,987	343,736	1,227,927
2005	504,319	1,837,824	70,981	445,888	433,338	1,391,936

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2006	530,357	1,782,863	88,477	459,961	441,880	1,322,902
2007	345,884	1,380,933	60,327	442,359	285,557	938,574
2008	344,248	1,793,857	60,839	468,958	283,409	1,324,899
2009	333,288	1,670,525	61,480	432,425	271,808	1,238,100
2010	356,747	1,736,630	64,876	464,475	291,871	1,272,155
2011	353,122	1,965,407	67,702	529,700	285,420	1,435,707
2012	340,125	1,941,195	67,339	500,409	272,786	1,440,786
2013	344,781	1,888,266	67,519	496,214	277,262	1,392,052
2014	334,349	1,979,656	66,240	506,979	268,109	1,472,677
2015	334,228	1,538,681	66,773	416,588	267,455	1,122,093
2016[1]	380,255	1,599,958	113,738	468,304	266,517	1,131,654

--- No data available.

–[1] The figures for 2016 are estimates.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter V.C.4.
Cost of Living Allowance in the Continental United States (CONUS COLA)

Legislative Authority: 37 U.S.C. §403b.

Purpose: To partially offset differentially higher non-housing living costs experienced by members of the uniformed services in different parts of the United States.

Background: The National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §602(a)(1), 108 Stat. 2663, 2779–2781 (1994), adopted a new provision[1] authorizing the payment of a "cost-of-living allowance" to a member of the uniformed services (i) "assigned to a high cost area in the continental United States," (ii) "assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States," or (iii) "assigned to duty in the continental United States if ... the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances ... and it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member." [See 37 U.S.C. §403b(b)(1)–(3).] For the purpose of the cost-of-living allowance, "a high cost area" is an area in the United States in which the "uniformed services cost of living ... exceeds the average cost of living ... by at least the threshold percentage," with the "threshold percentage" being determined by the Secretary of defense in consultation with the service Secretaries at a rate "not ... less than 8 percent". [See 37 U.S.C. §403b(c).] The actual amount of the cost-of-living allowance payable to a particular member equals the product of the member's "average spendable income," determined only with respect to the member's regular military compensation, and the amount by which the difference between the "uniformed services cost of living" for the particular area in question and the "average cost of living in the continental United States" (both measured as percentages) exceeds the "threshold percentage."[See 37 U.S.C. §403b(d).] Both "average spendable income" and the "uniformed services cost of living" are determined without reference to housing costs, which are theoretically compensated for by the basic allowance for housing.[2] [See 37 U.S.C. §403b(g) and (h)(3).] In administering the provision, the "threshold percentage" is to be adjusted every year so that the total amount of the cost-of-living allowance actually paid to all members of the uniformed services does not exceed the amount appropriated to all the uniformed services for that purpose. [See 37 U.S.C. §403b(c).]

In explaining the reasons for the new entitlement, the House Armed Services Committee noted:

> Members of the armed forces move around the country as a requirement of their service. Over a career, a service member is likely to be assigned to a variety of low, medium, and high-cost areas. Currently, military compensation is adjusted only to reflect differences in local housing costs; there is no pay element to compensate members stationed in the Continental United States (CONUS) for variations in non-housing costs which have increased in the last 10 years.
>
> The Seventh Quadrennial Review of Military Compensation (QRMC) found that CONUS non-housing costs vary from 5 percent below to 19 percent above the national average. It is impossible [*sic*, possible?] for a service member to move from an average-cost to a high-cost area and suffer a more severe loss in purchasing power than would result from a reduction in rank. QRMC analysis further showed that once a member is assigned to one of the very high cost areas, he or she has little chance of offsetting the loss in buying power through subsequent moves to low cost areas.

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[1] Codified at 37 U.S.C. §403b, immediately following the provision authorizing a variable housing allowance; see also 37 U.S.C. §403a.

[2] See Chapter II.B.2., hereof, "Housing Allowances," above.

> During manpower budget overview hearings this year, the committee heard repeated testimony about the financial hardships experienced by service members in high-cost locations, particularly recruiters and other members assigned to independent duty that placed them at considerable distance from the nearest on-base facilities.
>
> Therefore, the committee recommends ... the establishment of a CONUS COLA to partially defray the added non-housing costs incurred by service members assigned to high cost areas....[3]

As originally enacted, no cost-of-living allowance could be paid to any member of the uniformed services earlier than 90 days following submission by the Secretary of Defense of a report to Congress detailing how the program would be administered and what procedures would be established to "prevent uncontrolled growth" in costs under the program in future years. [See National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §602(b), 108 Stat. 2663, 2781–2782 (1994).]

The cost of living allowance program for the continental United States is frequently referred to by the acronym "CONUS COLA."

Current rate of pay authorized: The amount of the cost-of-living allowance authorized by 37 U.S.C. §403b varies depending on an eligible member's duty station and the location of the member's dependents.

Cost: For the cost of the cost-of-living allowance in the continental United States from 1996 to 2016, see table V-5, below.

Table V-5. Cost of Living Allowance for the Continental United States (CONUS COLA for Officers and Enlisted), 1996–2016

Fiscal Year	Personnel	Cost ($000)
1996	26,592	$8,894
1997	24,093	10,786
1998	18,785	10,094
1999	14,316	9,121
2000	13,242	10,900
2001	16,622	13,213
2002	20,477	16,958
2003	45,477	52,770
2004	45,321	47,152
2005	79,107	99,372
2006	47,954	51,837
2007	72,047	86,729
2008	73,983	79,723
2009	48,073	45,243
2010	26,652	30,116
2011	37,098	46,147
2012	34,814	43,730
2013	28,822	40,444

[3] H.R. Rep. No. 103-499 (Committee on Armed Services), at 249, accompanying H.R. 4301, 103d Cong., 2d sess. (1994). See H.R. Rep. No. 103-701 (Committee of Conference), at 712, accompanying S. 2182, 103d Cong., 2d sess. (1994).

Fiscal Year	Personnel	Cost ($000)
2014	17,865	31,733
2015	11,605	19,228
2016[1]	8,360	12,752

–[1] The figures for 2016 are estimates.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter V.C.5.
Family Separation Allowance (FSA)

Legislative Authority: 37 U.S.C. §427.

Purpose: To partially reimburse, on average, members of the uniformed services involuntarily separated from their dependents for the reasonable amount of extra expenses that result from such separation, and to reimburse members who must maintain a home in the United States for their dependents and another home overseas for themselves for the average expenses of maintaining the overseas home.

Background: The Department of Defense recognizes that a member is obligated to provide his or her family with a separate home when, because of duty assignment or health limitations of dependents,[1] he or she is unable to reside with them. Even if the member is furnished food and lodging by the government at his or her duty station, such separate living arrangements typically result in a myriad of small but collectively substantial expenses that would not have to be paid if the family were living together. For example, a member's spouse may have to pay for varied odd jobs around the home, automobile and appliance maintenance and repair, yard upkeep, and the like, that would ordinarily be taken care of by the member if not assigned to a remote duty station. In addition, a spouse may have to pay for someone to perform various chores that would normally be taken care of by either the spouse or the member were the member not so assigned, such as hiring a baby-sitter while shopping. In addition, when not at home, a member typically pays more for laundry and other cleaning that would normally be done as a part of the family laundry. Exchanging letters and packages similarly involves additional costs directly attributable to family separation. An occasional telephone call may increase separation costs even more.

To help defray the cost of such incidental expenses, the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §11, 77 Stat. 210, 217 (1963), authorized the payment of a $30 monthly family separation allowance (FSA) to members in pay grades E-5 and above, as well as to members in pay grade E-4 with more than four years of service, who were involuntarily separated from their dependents for more than 30 days, whether inside or outside the United States. This allowance is commonly referred to as "Type II" FSA—hereafter, "FSA-II"—to distinguish it from another category authorized for a different purpose. The original FSA-II, with its flat $30 rate, was obviously not intended as a direct reimbursement for actual expenses. Rather, it was designed to reimburse, on an average basis, the miscellany of non-quantifiable added expenses that result from family separation.

As indicated by the Senate Committee on Armed Services:

> The rationale for the family [separation] allowance is that enforced separations of servicemen from their families cause added household expenses where the member is absent for any extended period of time. This condition results in an inequity as compared to those members whose dependents are authorized to accompany them. The extra expenses include such matters as home and automobile maintenance, increased child care costs, etc.[2]

By the latter part of the 1970s, the Department of Defense became convinced that denial of FSA-II to members in pay grades E-1, E-2, E-3, and E-4 (with less than four years of service) was essentially inequitable. Citing the original purpose of the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, *id*., i.e., "to partially reimburse members involuntarily separated from their dependents for the average extra expenses that result from the separation," the Department of Defense took the position that the existing law establishing the FSA-II entitlement "denies it to those members least able to meet the additional costs of

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[1] The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1134 (2001), added the provision that a member retains eligibility for a family separation allowance when a dependent's health limitation causes the member to elect an unaccompanied tour where such an election normally would preclude eligibility.
[2] S. Rep. No. 88-387 (Committee on Armed Services), at 25, accompanying H.R. 5555, 88th Cong., 1st sess. (1963).

maintaining two households" and accordingly urged that the entitlement be extended to "help to reduce the financial hardship of married junior enlisted personnel who are serving unaccompanied tours at overseas locations."[3] The Senate Armed Services Committee, accepting the recommendations of the Department of Defense, agreed to extend the entitlement to junior enlisted personnel but in doing so expressed a somewhat different purpose—namely, the "hope that the payment of this additional allowance for unaccompanied tours will encourage married junior enlisted personnel to serve overseas on unaccompanied tours," thereby reducing "the large numbers of dependents overseas" and the attendant costs.[4] The extension of FSA-II to junior enlisted personnel was effected by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §809(a), 94 Stat. 1077, 1097 (1980).

For the purpose of administering entitlements to the family separation allowance (Type II) authorized by 37 U.S.C. §427, FSA-II is divided into FSA-R, FSA-S, and FSA-T. FSA-R applies to members for whom government transportation of dependents is not authorized and the dependents do not live at or near the member's permanent duty station or home port;[5] FSA-S applies where the member is on duty aboard a ship, when the ship is away from home port continuously for more than 30 days; and FSA-T applies to members assigned to temporary additional duty away from their permanent duty station continuously for more than 30 days.[6]

When bachelor government quarters are not available at an overseas duty station, a member so assigned must obtain private living accommodations at his or her own expense. A member whose dependents are not permitted at the overseas station is thus required to maintain two homes: one in the United States for the member's family, and one overseas. In addition to establishing FSA-II, the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, §11, 77 Stat. 210, 217 (1963), also established so-called "Type I" FSA—hereafter, "FSA-I"[7]—to reimburse the relatively few personnel finding themselves in this situation. Under the Uniformed Services Pay Act of 1963, FSA-I is equal to the monthly "without-dependents" BAH for the member's grade. In other words, it provides a member with dependents who is separated from his or her family with the same cash allowance to obtain housing for as is provided a similar member without dependents who must obtain private quarters at his or her own expense. FSA-I is not an actual-expense reimbursement: its purpose is to help defray, on an average basis, the extra expense incurred by a member in maintaining a second home at an overseas duty station where dependents are not permitted and where no bachelor quarters are available. With the extension of FSA-II to junior enlisted personnel by the Department of Defense Authorization Act, 1981, Pub. L. No. 96-342, §809(a), 94 Stat. 1077, 1097 (1980), all members entitled to FSA-I are automatically eligible for FSA-II at the same time, since both kinds of extra expenses covered by the two types of FSA occur in these circumstances. A member entitled to FSA-I is also eligible, on the same basis as any unmarried member, for applicable overseas station allowances. See Chapter V.C.3., "Overseas Station Allowances," above.

The legislative history of the Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, *id*., stressed the home maintenance and repair jobs a member/husband would do if he were home as being typical of the extra expenses FSA-II was created to offset, but the law made no reference to the family residential situation.

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[3] S. Rep. No. 96-826 (Committee on Armed Services), at 134, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).
[4] S. Rep. No. 96-826 (Committee on Armed Services), at 133, accompanying H.R. 6974, 96th Cong., 2d sess. (1980).
[5] FSA-R does not apply to a member who, after September 30, 1986, "elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States...." See 37 U.S.C. §427(b)(3) as added by the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §618(a)(4), 100 Stat. 3816, 3880–3881 (1986) . Also see the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, *id*., §618(b), 100 Stat. 3881, for savings provisions applicable to persons receiving FSA-R on September 30, 1986, whose continuing entitlement would otherwise have been terminated by the instant amendment.
[6] *Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, DOD 7000.14-R, ¶ 30304.
[7] Codified at 37 U.S.C. §427(a).

Nonetheless, the Comptroller General, relying heavily on the "handyman" emphasis of the legislative history, ruled in 1968 that the law allowed payment of FSA-II only to a member who maintained a separate residence, subject to the member's own management and control, for dependents. This ruling resulted in stripping the FSA-II allowance from a large number of personnel who would otherwise have been eligible for it. For example, it made a member ineligible when his wife lived with her parents or parents-in-law during family separation resulting from the member's assignment to a distant duty station. The Act of December 7, 1970, Pub. L. No. 91-529, §1, 84 Stat. 1839 (1970), was enacted specifically to remedy this effect of the Comptroller General's ruling. This act, which was made retroactive to the date FSA-II payments were first authorized, expressly stated that FSA-II was payable even though a member did not maintain a residence for dependents that was both subject to the member's management and control and that the member was likely to share with them as a common household when the member's duty assignment permitted. It thus made clear that the types of expenses the allowance was intended to reimburse were not limited to the "handyman" kind, but that the purpose of the allowance was to help defray the full range of miscellaneous expenses that result from family separation.

The Uniformed Services Pay Act of 1963, Pub. L. No. 88-132, *id*., intentionally provided that an entitlement to cash BAQ was a condition precedent to entitlement to FSA-II. This was aimed at members whose dependents occupied family-type government quarters during the period of separation, on the theory that they had no significant extra expenses for home maintenance and repair. As the full array of family-separation expenses came into clearer focus, however, Congress decided that this bar was not justified. The Act of December 7, 1970, Pub. L. No. 91-533, §1, 84 Stat. 1392 (1970), also enacted on December 7, 1970, accordingly eliminated the BAQ and FSA-II entitlement pairing.

The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §607, 99 Stat. 583, 639 (1985), increased FSA-II to $60.00 per month. As explained in the report of the Senate Committee on Armed Services:

> This allowance was enacted in 1963, and the amount of $30 per month has not changed since that time. The Fifth Quadrennial Review of Military Compensation reaffirmed the need for this allowance, and recommended that the monthly rate be increased to $60 per month. For the second year in a row, the defense budget includes a request to increase the Family Separation Allowance from $30 to $60 per month.
>
> The committee believes that the Family Separation allowance (Type II) should be increased. Section 505 [of the Senate Bill, S. 1029] increases this allowance from $30 to $60 per month as proposed by the Department of Defense.[8] [9]

The National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §625, 105 Stat. 1290, 1379 (1991), again increased FSA-II, this time to $75 per month. The Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §302, 105 Stat. 75, 80 (1991), had temporarily authorized an increase in FSA-II from $60 to $75 for "the period

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[8] S. Rep. No. 99-41 (Committee on Armed Services), at 192, accompanying S. 1029, 99th Cong., 1st sess. (1985); *cf*. S. Rep. No. 99-118 (Committee of Conference), at 428, and H.R. Rep. No. 99-235 (Committee of Conference), at 428, accompanying S. 1160, 99th Cong., 1st sess. (1985).

[9] Pursuant to 37 U.S.C. §1008(b), the President is required to conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation system. The Ninth Quadrennial Review of Military Compensation was convened in 1999, pursuant to presidential directive, and its report and recommendations were submitted to Congress in late 2001. For the recommendations and supporting rationale of the Fifth Quadrennial Review concerning the family separation allowance (Type II), see *Report of the Fifth Quadrennial Review of Military Compensation: Executive Summary*, January 1984, VI-12, and *Report of the Fifth Quadrennial Review of Military Compensation, Volume III*: *Special and Incentive Pays*, November 1983, 729–38

beginning January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf Conflict," and the changes to the FSA-II program made by the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §625, *id*., was intended to make the temporary increase permanent.[10] [11]

The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1795 (1997), raised the family separation allowance from $75 per month to $100 per month. In response to the great increase in family-separation situations caused by Operation Enduring Freedom and Operation Iraqi Freedom, the Emergency Wartime Supplemental Appropriations Act of 2003, Pub. L. No. 108-11, 117 Stat. 570 (2003), mandated a temporary increase in the allowance to $250 per month. The National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004), made the $250 FSA-II rate permanent.

The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 requires the service secretaries to pay each member of a married couple a full family separation allowance if both are members of the uniformed services who are residing together with dependents prior to a qualifying deployment.[12]

Current rates of family separation allowance authorized: Family separation allowance is currently authorized at the following rates:

FSA-I: Payable monthly to a member at the same rate as the basic allowance for housing for members in the same pay grade without dependents.

FSA-II: $250 per month.

Cost: For the cost of family separation allowances from 1972 to 2016, see tables V-6A–B, below.

Table V-6A. Family Separation Allowance (FSA) Type I, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	3,298	$3,883	481	$837	2,817	$3,046
1973	3,700	4,900	541	1,085	3,159	3,815
1974	3,918	5,134	577	1,134	3,341	4,000
1975	3,704	5,058	507	1,037	3,197	4,021
1976	3,458	4,734	481	1,049	2,977	3,685
1977	3,212	5,120	414	1,049	2,798	4,071
1978	3,993	6,947	400	1,114	3,593	5,833
1979	4,412	7,933	392	1,130	4,020	6,803
1980	3,151	6,411	470	1,455	2,681	4,956

[10] H.R. Rep. No. 102-60 (Committee on Armed Services), at 248, accompanying H.R. 2100; S. Rep. No. 102-113 (Committee on Armed Services), at 226, accompanying S. 1507; and H.R. Rep. No. 102-311 (Committee of Conference), at 551, accompanying H.R. 2100, 102d Cong., 1st sess. (1991).

[11] In addition to making permanent the rate of FSA-II temporarily authorized by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, §302, 105 Stat. 75, 80 (1991), the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §611(b), 105 Stat. 1290, 1376 (1991), repealed the prohibition on payment of FSA "in time of war or national emergency ... declared by Congress." The prohibition was repealed to prevent potential "pay inequities in future conflicts like Operation Desert Storm." See H.R. Rep. No. 102-60 (Committee on Armed Services), at 248, accompanying H.R. 2100, 102d Cong., 1st sess. (1991); *cf*. H.R. Rep. No. 102-311 (Committee of Conference), at 248, accompanying H.R. 2100, 102d Cong., 1st sess. (1991).

[12] Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, Title VI, Subtitle A, Sec. 604, 122 Stat. 4356 (2008).

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1981	5,847	12,678	673	2,318	5,174	10,360
1982	5,232	13,109	621	2,459	4,611	10,650
1983	5,343	13,782	584	2,374	4,759	11,408
1984	5,262	13,954	594	2,516	4,668	11,438
1985	4,789	13,388	534	2,333	4,255	11,055
1986	4,490	13,168	533	2,416	3,957	10,752
1987	4,046	12,443	560	2,645	3,486	9,798
1988	3,708	11,717	517	2,471	3,191	9,246
1989	3,497	12,011	481	2,483	3,016	9,528
1990	3,409	12,458	463	2,468	2,946	9,990
1991	2,828	11,017	503	2,785	2,325	8,232
1992	2,697	10,675	463	2,719	2,234	7,956
1993	2,518	10,206	365	2,266	2,153	7,940
1994	2,685	10,954	364	2,335	2,321	8,619
1995	2,217	9,363	318	2,124	1,899	7,239
1996	8,559	14,306	692	2,526	7,867	11,780
1997	8,588	15,871	755	3,004	7,833	12,867
1998*	8,210	18,630	657	3,227	7,553	15,403
1999	7,827	18,397	713	3,464	7,114	14,933
2000	7,782	20,945	738	4,017	7,044	16,928
2001	8,175	23,562	863	5,084	7,312	18,478
2002	10,163	28,814	1,811	6,599	8,352	22,215
2003	14,692	59,283	3,632	16,147	11,060	43,136
2004	11,201	46,147	1,225	7,736	9,976	38,411
2005	9,500	37,213	3,126	14,173	6,374	23,040
2006	21,330	70,552	7,457	22,365	13,873	48,187
2007	13,766	42,824	1,180	3,735	12,586	39,089
2008	15,810	48,739	1,352	4,324	14,458	44,415
2009	42,148	126,442	4,638	13,912	37,510	112,530
2010	40,188	120,563	4,305	12,914	35,883	107,649
2011	38,853	116,560	3,766	11,298	35,087	105,262
2012	33,747	101,239	3,600	10,799	30,147	90,440
2013	33,061	99,184	3,628	10,884	29,433	88,300
2014	32,364	97,143	3,979	11,989	28,385	85,154
2015	27,400	82,202	3,397	10,192	24,003	72,010
2016[1]	24,638	73,914	2,652	7,955	21,986	65,959

Note: Members are entitled to FSA I when travel of dependents to overseas duty station is not authorized and the member maintains two homes, one in Continental United States (CONUS) for his or her family and one overseas. FSA I is paid at the BAH II – without/dependent rate.

–[1] The figures for 2016 are estimates.

Note: Sources for tables V-6A–B are given at the base of table V-6B.

Table V-6B. Family Separation Allowance (FSA) Type II, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	170,895	$61,522	41,754	$15,031	129,141	$46,491
1973	133,173	47,943	32,777	11,800	100,396	36,143
1974	99,608	36,053	20,587	7,411	79,021	28,642
1975	90,402	32,546	16,407	5,908	73,995	26,638
1976	78,716	28,338	15,940	5,738	62,776	22,600
1977	76,881	27,678	13,693	4,929	63,188	22,479
1978	71,933	25,896	12,458	4,484	59,475	21,412
1979	72,114	25,999	11,876	4,312	60,238	21,687
1980	72,577	26,126	11,393	4,100	61,184	22,026
1981	88,283	31,780	11,815	4,252	76,468	27,528
1982	103,244	37,168	11,570	4,165	91,674	33,003
1983	115,389	41,542	11,526	4,150	103,863	37,392
1984	117,051	42,138	11,254	4,052	105,797	38,086
1985	112,146	40,375	11,652	4,197	100,494	36,178
1986	111,593	80,346	10,294	7,411	101,299	72,935
1987	106,992	77,033	10,477	7,543	96,515	69,490
1988	98,217	70,716	10,440	7,518	87,777	63,198
1989	96,149	69,227	10,430	7,511	85,719	61,716
1990	103,161	74,277	11,247	8,098	91,914	66,179
1991	268,013	230,366	37,085	31,952	230,928	198,414
1992	94,058	84,649	10,982	9,882	83,076	74,767
1993	98,427	88,578	11,086	9,978	87,341	78,600
1994	88,264	79,439	9,679	8,712	78,585	70,727
1995	78,441	70,598	9,684	8,716	68,757	61,882
1996	97,921	88,131	11,106	9,997	86,815	78,134
1997	84,187	75,768	11,421	10,281	72,766	65,487
1998*	82,592	92,561	11,088	12,765	71,504	79,796
1999	80,037	92,951	10,613	12,294	69,424	80,657
2000	75,719	82,258	10,358	11,310	65,361	70,948
2001	53,961	64,391	10,311	12,011	43,650	52,380
2002	92,414	111,361	11,693	14,035	80,721	97,326
2003	305,228	877,095	29,542	50,036	275,686	827,059
2004	292,860	269,649	28,828	86,485	264,032	183,164
2005	9,500	37,213	3,126	14,173	6,374	23,040
2006	21,330	70,552	7,457	22,365	13,873	48,187
2007	13,766	42,824	1,180	3,735	12,586	39,089
2008	15,810	48,739	1,352	4,324	14,458	44,415
2009	130,242	390,726	22,042	66,126	108,200	324,600
2010	175,267	525,802	29,979	89,938	145,288	435,864
2011	168,142	504,426	31,868	95,604	136,274	408,822
2012	161,752	407,258	52,497	79,492	109,255	327,766
2013	108,401	325,201	21,917	65,751	86,484	259,450

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2014	89,841	269,521	20,681	62,042	69,160	207,479
2015	62,809	188,429	13,469	40,409	49,340	148,020
2016[1]	31,439	94,320	6,743	20,231	24,696	74,089

* **Note:** FSA II is payable when a member with dependents makes a permanent change of station move, or a member is on temporary duty away from the permanent duty station for 30 consecutive days or more either in CONUS or overseas, and the travel of dependents to the member's duty station is not authorized, and dependents do not reside at or near the duty station. The FY 2004 National Defense Authorization Act temporarily increased the FSA payment from $100 to $250 for the period beginning October 1, 2003, and ending December 31, 2004, for those members in TDY and PCS status. The 2005 NDAA Section 623 made the monthly rate of $250 permanent.

–[1] The figures for 2016 are estimates.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter V.C.6.
Dislocation and Departure Allowances

Legislative Authority: 37 U.S.C. §§475a and 477[1]

Purpose: To partially reimburse members of the uniformed services for the average expenses they incur in relocating their households incident to a permanent change of station (dislocation allowance) or as a result of unexpectedly having to evacuate their dependents from an overseas area to a safe haven or designated place (departure allowance).

Background: The nature of military service gives rise to a number of permanent changes of duty station or other forced household relocations over the course of a full military career. The household relocations attendant on such changes of station in turn give rise to a number of individually small but collectively sizeable expenses that members of the armed forces must defray, such as loss of rent deposits, abandonment or forced sale of household goods that must be replaced, added wear and tear on household goods in transit, disconnecting and reconnecting telephone service, added costs for food and lodging after household goods have been shipped from an old duty station but before the member and the member's dependents actually leave, the same sorts of costs at a member's new duty station before household goods arrive, the purchase of miscellaneous furnishings for a new home, and similar expenses. Until 1955, expenses of this nature incurred by military personnel were not subject to reimbursement.

The Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(12), 69 Stat. 18, 21–22 (1955), recognized that duty station changes and resultant household relocations reflect personnel-management decisions of the armed forces and are not subject to the control of individual members. The Career Incentive Act of 1955 accordingly provided for the payment of a special allowance—termed "dislocation allowance" (DLA)—to help defray the cost of the various incidental relocation expenses incurred by members ordered to make a permanent change of station under such unexpected circumstances. [See 37 U.S.C. §477.] In concept, DLA is not a direct reimbursement for the actual added expenses involved in a particular household relocation; rather, it is designed to reimburse, on average, such extra expenses. Until October 1, 1985, DLA was equal to a member's basic allowance for quarters for one month. The Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, §611(a), 99 Stat. 583, 639 (1985), increased DLA from one month's BAQ to two. The increase was proposed in response to the belief of the House Armed Services Committee that "the current levels [of DLA] are inadequate to meet the many miscellaneous expenses associated with PCS [permanent change of station] moves."[2] Despite the increase in the authorization, until enactment of the Department of Defense Appropriations Act, 1990, Pub. L. No. 101-165, 103 Stat. 1112 (1989), successive appropriations acts in terms specifically prohibited payment of DLA in any amount in excess of one month's basic allowance for quarters.[3] The National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2422 (1996), increased the DLA from two month's BAQ to two

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[1] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle D, Sec. 631, 125 Stat. 1298, 1452-1465 (2011). This legislation established a new title 37, Chapter 8 that gives the Secretary of Defense and other administering Secretaries broad, flexible authority to simplify travel and transportation policy and initiate pilot programs. It stipulates that allowances, payments and reimbursements provided under 37 U.S.C. 474-481 terminate after the "travel authorities transition expiration date," defined as "the last day of the 10-year period beginning" January 1, 2012. New law 37 U.S.C. §§ 452(c)(2) and 453(d) specifically apply to dislocation and departure allowances.

[2] H.R. Rep. No. 99-81 (Committee on Armed Services), at 225, accompanying H.R. 1872, 99th Cong., 1st sess. (1985). See S. Rep. No. 99-41 (Committee on Armed Services), at 192–93, accompanying S. 1029, 99th Cong., 1st sess. (1985).

[3] e.g., Act of December 22, 1987 (Continuing Appropriations, 1988), Pub. L. No. 100-202, §8066, 101 Stat. 1329, 1329–1373 (1987), and Department of Defense Appropriations Act, 1989, Pub. L. No. 100-463, §8054, 102 Stat. 2270, (1988). Both the Department of Defense Appropriations Act, 1990, Pub. L. No. 101-165, 103 Stat. 1112 (1989), and the Department of Defense Appropriations Act, 1991, Pub. L. No. 101-511, 104 Stat. 1856 (1990), were silent on the issue and the rate was increased to the equivalent of two months BAQ effective October 1, 1989.

and one-half months effective January 1, 1997. The National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1012 (2001), authorized partial DLA of $500 for members ordered to occupy or vacate government family-type housing.

In 1967 the House Armed Services Committee expressed the view that members without dependents generally incur relocation expenses—similar to those incurred by members with dependents—when assigned to a new duty station where they are not furnished government quarters. The Act of December 16, 1967 (Uniformed Services Pay Act of 1967), Pub. L. No. 90-207, §1(4), 81 Stat. 649, 651–52 (1967), provided a measure of relief for such personnel by authorizing the payment of DLA incident to the permanent change of station of a member without dependents, if the member is not assigned to government quarters at the new duty station. [See 37 U.S.C. §477(a)(3).]

The National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1797 (1997), changed the basis for computing annual adjustments in the DLA. Using as a basis the BAQ-based DLA rates that were in place on December 31, 1997, adjustments in ensuing years are based on the average percentage change in basic pay, not the housing allowance. Because of the tie-in between DLA and basic pay, a change in basic pay also results in a change in DLA. Under present law, DLA rates may be expected to increase each year as annual pay raises occur. [See Chapter II.B.1., "Basic Pay," above.]

The October 1962 evacuation of military dependents from Guantánamo Bay, Cuba, and the evacuation of dependents from Vietnam in the mid- to late-1960s and the early 1970s made it apparent that military personnel incur household relocation expenses when not provided with government quarters at their new stations, and that such expenses are similar to those for which members with dependents are paid DLA upon a permanent change of duty station. The Act of May 22, 1965, Pub. L. No. 89-26, §1(1), 79 Stat. 116, 116–17 (1965), accordingly extended authorization for a special allowance, codified at 37 U.S.C. §405a (now §475a), to members whose command-sponsored dependents are ordered to leave an overseas area for a "safe haven" or other specially designated place. This allowance—similar in concept to DLA—is authorized in such amount "as the Secretary concerned determines necessary to offset the expenses incident to the departure."[4] This allowance is extraordinary in nature and is in addition to any other allowances authorized by any provision of Title 37 of the United States Code. [See 37 U.S.C. § 475a, generally.]

Pursuant to the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §124, 95 Stat. 989, 1003 (1981), DLA and departure allowances may be paid in advance. The reason for allowing such advance payment of DLA and departure allowances was to "help alleviate the financial burdens currently encountered by military members experiencing government directed relocations by making the appropriate allowances available at the time the expenses are incurred, and reducing their interim out-of-pocket costs."[5] In essence, this authority put members of the armed forces on equal footing with their counterparts in the Foreign Service, who had been given advance payment authorization in the Foreign Service Act of 1980, Pub. L. No. 96-465, §2303, 94 Stat. 2071, 2164–2165 (1980).

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[4] Under the Act of May 22, 1965, Pub. L. No. 89-26, §1(1), 79 Stat. 116, 116–17 (1965), the allowance was made available only for an "evacuation." The Foreign Service Act of 1980, Pub. L. No. 96-465, §2303(e), 94 Stat. 2071, 2165 (1980), made the allowance available whenever a "departure," rather than an "evacuation," was ordered. As explained in the relevant congressional report:

> The [Senate Foreign Relations Committee] believes that it is in the interests of both the Government and the employee to provide more flexible requirements in this area.... [T]he Government can more easily order departures from posts abroad of nonessential personnel when a crisis occurs without ordering a full-scale evacuation.

S. Rep. No. 96-913 (Committee on Foreign Relations), at 103, accompanying S. 3058, 96th Cong., 2d sess. (1980). (The National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §1343(b)(3), 100 Stat. 3816, 3995 (1986), changed the title heading for 37 U.S.C. § 405a (now §475a)from "Travel and transportation allowances: evacuation allowances" to "Travel and transportation allowances: departure allowances.")

[5] S. Rep. No. 97-146 (Committee on Armed Services), at 13, accompanying S. 1181, 97th Cong., 1st sess. (1981).

Current amount of allowance authorized: The current level of dislocation and departure allowances authorized are as follows:

Dislocation allowance: The amount of dislocation allowance payable to a member entitled to that allowance under the conditions set out in 37 U.S.C. §477 equals the amount in effect December 31, 1997 (equal to two and one-half months' basic allowance for quarters for a member in the same pay grade and with the same dependency status), adjusted by the annual average percentage increases in basic pay for the respective ensuing years.

Departure allowance: The amount of departure allowance payable to a member entitled to that allowance under the conditions set out in 37 U.S.C. §475a is based on the number and ages of dependents and the circumstances of the departure. Dependents are authorized travel and transportation costs and a percentage of their lodgings cost plus up to the per diem that a TDY member would receive.

Cost: For the cost of dislocation and departure allowances from 1972 to 2016, see table V-7, below.

Table V-7. Dislocation and Departure Allowances, 1972–2016

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
1972	338,464	$48,421	84,923	$16,601	251,754	$31,820
1973	315,119	48,061	93,095	18,514	222,024	29,547
1974	334,439	51,060	86,890	17,198	247,549	33,862
1975	289,133	49,091	77,312	18,667	211,821	30,424
1976	327,003	55,519	74,520	18,803	252,483	36,716
1977	274,819	50,776	73,228	16,634	201,591	34,402
1978	254,709	53,904	70,282	18,813	184,427	35,091
1979	254,422	57,373	67,677	19,600	186,724	37,773
1980	249,500	60,562	69,012	21,477	180,481	39,085
1981	257,502	66,807	73,941	23,305	183,561	43,502
1982	274,709	80,676	---	---	---	---
1983	282,280	84,694	---	---	---	---
1984	292,775	93,243	---	---	---	---
1985	299,491	98,554	---	---	---	---
1986	432,063	108,688	---	---	---	---
1987	270,699	98,787	---	---	---	---
1988	276,169	103,367	---	---	---	---
1989	278,736	109,237	---	---	---	---
1990	264,127	216,549	---	---	---	---
1991	263,573	229,438	---	---	---	---
1992	287,896	253,476	---	---	---	---
1993	265,825	245,173	---	---	---	---
1994	234,334	220,985	---	---	---	---
1995	225,556	216,640	---	---	---	---
1996	213,549	218,146	61,149	80,989	152,400	137,157
1997	194,904	247,485	56,227	88,409	138,677	159,076
1998	199,659	276,010	60,092	103,832	139,567	172,178
1999	204,901	294,080	60,261	110,935	144,640	183,145
2000	206,878	323,231	60,903	118,566	145,975	204,665
2001	203,077	328,900	54,968	116,913	148,109	211,987

Fiscal Year	Total Personnel	Cost ($000)	Officers	Cost ($000)	Enlisted	Cost ($000)
2002	221,851	348,987	63,225	141,327	158,626	207,660
2003	365,524	464,078	81,648	188,250	283,876	275,828
2004	238,857	342,040	67,278	143,920	171,579	198,120
2005	288,786	382,250	70,462	150,324	218,324	231,926
2006	217,109	432,403	67,434	169,687	149,675	262,716
2007	232,474	442,529	73,931	166,838	158,543	275,691
2008	215,531	403,296	63,392	154,679	152,139	248,617
2009	328,783	439,719	75,970	153,487	252,813	286,232
2010	244,595	433,782	69,827	174,257	174,768	259,525
2011	245,801	456,898	70,240	184,213	175,561	272,685
2012	265,853	428,672	75,334	163,493	190,519	265,179
2013	248,231	446,898	72,401	180,513	175,830	266,385
2014	232,564	423,125	71,229	176,963	161,335	246,162
2015	217,587	474,312	69,926	189,000	147,661	285,312
2016[1]	216,412	478,306	70,377	192,189	146,035	286,117

--- **Note:** No officer and enlisted personnel breakout was available from 1982 to 1995.

–[1] The figures for 2016 are estimates.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter V.C.7.
Separation Travel and Transportation Allowances

Current Legislative Authority: 37 U.S.C. §§474 and 476.[1]

Statutory Implementing Regulations: Chapters 4, 7 and 8, Joint Federal Travel Regulations (JFTR).

Purpose: To defray the expenses incurred, upon separation, by service members returning to their homes or the places from which they originally entered military service from civilian life.

Background: The policy of returning a service member to his or her home upon discharge, either actually or constructively, is traditional. Statutes authorizing such a policy have been in existence continuously since 1799. A lucid explanation of the purpose of such statutes and of the character of separation travel was provided nearly 100 years ago by the United States Court of Claims in *Major Sherburne's Case*, 16 Ct. Cl. 491 (1880). In delivering the opinion of the Court, Judge Nott stated, in pertinent part:

> This being the method, time out of mind, of compensating officers of the Army while in the service, there was also a payment for traveling expenses allowed to both officers and soldiers upon their discharge from the service by the Acts 3rd March, 1799, 11th January, 1812, 29th January, 1813.
>
> But this payment was not of the nature of wages for service. On the contrary it was a payment to be made after all service had ceased, and was of the nature of indemnity. When an ordinary employee binds himself by contract for work and service, he is free to designate the place of his discharge, and if, without its being designated, his employer should discharge him at a distant or unreasonable place, the law would award him such damages as would make him whole. In the case of persons entering the military service, they can prescribe no such condition and are liable to be sent by their employer to the most remote places of the earth, and are likewise liable to be discharged at any place, or at any moment. In a country with so vast a territory as ours this would often work great wrong to the individual and would result in great inequality of justice throughout the Army generally. One soldier enlisted and domiciled in Washington might be discharged in Washington; another enlisted and domiciled in Florida might be discharged in Alaska. It has never been the policy of the government to deal out anything but even-handed justice to its soldiers, and if there be any one rule of policy which has been more invariably adhered to than another, it has been the rule of returning an officer or soldier to his home, either positively by his actual discharge there, or constructively by commutation for traveling expenses and time, or by pay with transportation and rations in kind.
>
> These things were a part of the moral compact between the government and its soldiers when the Act 1870 was passed. Pay might be increased or diminished, allowances might be added or taken away, traveling expenses might be commuted in money or transportation be furnished in kind, but morally there rested upon the government the obligation of paying a soldier while he remained in the service, and of returning him to his home when his service ended.
>
> This obligation, so far as the knowledge of the Court extends, the government has never sought to evade.

A more recent indication of congressional policy in this regard is contained in the House report accompanying H.R. 16243, 93d Cong., 2d sess. (1974), enacted as the Department of Defense Appropriation Act, 1975, Pub. L. No. 93-437, 88 Stat. 1212 (1974):

[1] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle D, Sec. 631, 125 Stat. 1298, 1452-1465 (2011).

> For many years the Congress has authorized travel allowances or transportation to military personnel separated from the military services. This long-standing policy demonstrates the intent of the Congress to defray the expenses encountered by a serviceman in returning to his home or to the place where he entered the service from civilian life.[2]

Separation travel allowances include transportation of the member and his or her dependents and household goods, or reimbursement for such transportation, from the place the member is separated to the member's home. A summary description of allowances and procedures for separation travel is set out below.

SUMMARY OF SEPARATION TRAVEL BENEFITS

1. A member retired (or transferred to the Fleet Reserve or Fleet Marine Corps Reserve) with pay; or immediately following at least eight years of continuous active duty with no single break of more than 90 days, discharged with severance or separation pay or involuntarily released to inactive duty with readjustment or separation pay; or retired for physical disability or placed on the temporary-disability retired list without regard to length of service, is authorized:

* Travel allowances from the member's last duty station to a home of his selection. The allowance actually provided may consist of transportation in kind, reimbursement for transportation procured from a common carrier at the member's own expense, or a monetary allowance in lieu of transportation (MALT), plus a per diem allowance. Travel to whatever home is "selected" by the member must normally be completed within one year after termination of active duty. Members who had 18 or more years of active service as of November 1, 1981, are authorized to select a home any place in the world; all other members are generally limited in their home selection to places within the United States, except for members first called or ordered to active duty from a place outside the United States.

* Dependents' in-kind transportation, reimbursement for the actual cost of dependent transportation procured by common carrier at a member's own expense, or a monetary allowance in lieu of transportation (MALT), plus a per diem allowance for each dependent. The allowances are payable from the location of the member's last permanent duty station, or the place to which the dependents were transported at government expense, to a home selected by the member (which must be the same home selected by him for the purpose of his own travel allowance authorization). Travel to the selected home must normally be completed within one year after termination of active duty.

* Shipment of household goods at government expense, subject to weight limitations prescribed by pay grade, from the member's last or any previous permanent duty station, from a designated place in the United States from storage, or any combination thereof, to the home selected by the member (which must be the same home selected by him for the purpose of his own travel allowance entitlement), or to non-temporary storage for a period not to exceed one year. The household goods must normally be turned over to a transportation officer or carrier for shipment within 1 year following termination of active duty.

2. A member separated from the service or released from active duty under honorable conditions who is not covered by the preceding paragraph is authorized:

* Travel allowances from the member's last duty station to the member's home of record or the place from which the member was ordered to active duty, as the member may elect. The allowance actually provided may consist of transportation in kind, reimbursement for transportation procured from a common carrier at the member's own expense, or a monetary allowance in lieu of transportation (MALT), plus a per diem allowance.

* Travel and transportation allowances for travel of dependents not to exceed the authorization from the member's permanent duty station, or place to which the member's dependents were last transported at government expense, to the place elected by the member under the previous paragraph. The

[2] H.R. Rep. No. 93-1255 (Committee on Appropriations), at 43, accompanying H.R. 16243, 93d Cong., 2d sess. (1974).

allowance actually provided may consist of transportation in kind, reimbursement for the actual cost of dependent transportation procured by common carrier at the member's own expense, or a monetary allowance in lieu of transportation (MALT), plus a per diem allowance for each dependent. This authorization terminates unless travel is completed before the 181st day following separation or release from active duty.

* Shipment of household goods at government expense, subject to weight limitations determined by pay grade, from (1) the member's last or any previous duty station, (2) a designated place to which transported at government expense, or (3) a place of authorized storage, to the place elected by the member under the conditions stated above. Authorization for shipment normally terminates if the household goods are not turned over to a transportation officer or a designated representative prior to the expiration of the 180th day following separation or release from active duty.

Under amendments to the provisions for separation travel set out immediately above effected by the Uniformed Services Pay Act of 1981, Pub. L. No. 97-60, §121(a)(4), 95 Stat. 989, 999–1000 (1981), allowances for separation travel are payable only for travel actually performed. [See 37 U.S.C. §404(f)(1).] In addition, unless the member served on active duty for at least 90 percent of the time for which he or she initially enlisted or otherwise agreed to serve, the travel and transportation authorized are limited to the provision of transportation in kind by the least expensive mode of common-carrier transportation available, or a monetary allowance in lieu thereof that does not exceed the cost of the authorized transportation in kind. [See 37 U.S.C. §404(f)(2).]

3. Under amendments made to the provisions for separation travel and transportation allowances of Title 37, United States Code, by the National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §503, 104 Stat. 1485, 1558 (1990), during the five-year period beginning October 1, 1990, members of the Army, Navy, Air Force, or Marine Corps on active duty or full-time National Guard duty on September 30, 1990, who are involuntarily discharged, released from active duty, or denied reenlistment are authorized the same allowances for separation travel and transportation as members retired (or transferred to the Fleet Reserve or Fleet Marine Corps Reserve) with pay, discharged with severance or separation pay, or involuntarily released to inactive duty with readjustment or separation pay, immediately following at least eight years of continuous active duty with no single break of more than 90 days, or retired for physical disability or placed on the temporary-disability retired list without regard to length of service, as covered under Paragraph 1 of this Summary of Separation Travel Benefits, above. The extension of such allowances to personnel on active duty on September 30, 1990, who are involuntarily separated from active-duty service stemmed largely from Congress's perception of the altered nature of the military threats facing the United States in light of the changes taking place in Eastern Europe and the Soviet Union during the 1990s. As stated by the House Committee on Armed Services:

> The changing nature of the Soviet threat seems indisputable. The conventional threat to NATO is greatly diminished and cannot be revived. The Soviet global conventional threat has also declined, although not as precipitously as in Europe. Although the Soviet Union continues to modernize its strategic forces, the risk of nuclear war has receded. Moreover, Soviet military spending is clearly on the decline. The growing economic crisis in the Soviet Union raises serious doubt that Soviets can maintain its [sic] current pace of weapons modernization and adds significant uncertainty about what the Soviet threat will look like in the future.
>
> The policy guidelines under which the committee acted were:
>
> (1) Cuts in personnel and weapons should be made where the threat has decreased.
> (2) Men and women leaving the force must be treated fairly.
>
> The committee recommends reducing active end strength by 129,500 below fiscal year 1990 levels—a reduction of 91,895 below the President's budget request.

> To assist members being released from active duty as a result of the force drawdown, the committee recommends a comprehensive package of transition benefits to assist separating personnel and their families in readjusting to civilian life. The committee's recommendations include separation pay, continued medical coverage, pre-separation counseling, employment assistance and job training information, continued use of commissaries and exchanges, the opportunity for a dependent child to complete the school year in a Department of Defense overseas dependents school, the option to elect coverage in the Montgomery G.I. Bill, and post-separation transportation of household goods to home of choice, rather than home of record.
>
> Section 503 [of H.R. 4739, the bill ultimately enacted, with amendments, as the National Defense Authorization Act for Fiscal Year 1991] would amend sections 404 and 406 of title 37, United States Code to entitle all service members involuntarily separated during the five-year period beginning October 1, 1990 to unrestricted selection of home, and one year of nontemporary storage of baggage and household effects. The committee believes that the expanded transportation and household effects storage provided by [proposed] section 503 will assist involuntarily separated service members in relocating in areas where they are most likely to find immediate employment, thereby substantially reducing the cost of unemployment compensation.[3]

The National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §561(l) 107 Stat. 1547, 1668 (1993), extended from five years to nine years the period during which members involuntarily separated from active duty who did not qualify for separation travel and transportation benefits under the provisions of paragraph 1 of this Summary of Separation Travel Benefits, above, could nevertheless receive allowances for separation travel and transportation for themselves and their dependents. The period during which members involuntarily separated are authorized such allowances was extended from five to nine years in order to "provide a safety net of benefits for separating military personnel during the defense drawdown"[4] and thereby "minimize the uncertainties and personnel turbulence associated with such a drawdown" following the end of the Cold War.[5]

The National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, §561(f), 112 Stat. 1920 (1998), extended the involuntary separation allowances until September 30, 2001. The transition authority was not extended by the National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1012 (2001).

The National Defense Authorization Act for Fiscal Year 2013 authorizes the payment of travel and transportation allowances for certain members of the Selected Reserve, their dependents, and household effects when the member is involuntarily separated due to force structure reductions between October 1, 2012, and December 31, 2018, and fills a critical vacancy in another unit of the Selected Reserve that is at least 150 miles from the member's residence.[6]

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[3] H.R. Rep. No. 101-665 (Committee on Armed Services), at 14, 19, 20, and 273, accompanying H.R. 4739, 101st Cong., 2d sess. (1990). In this same connection, see S. Rep. No. 101-384 (Committee on Armed Services), at 29 and 173, accompanying S. 2884, 101st Cong., 2d sess. (1990); *cf.* S. Rep. No. 101-384 (Committee on Armed Services), at 8–30, accompanying S. 2884, 101st Cong., 2d sess. (1990), generally. Also see H.R. Rep. No. 101-923 (Committee of Conference), at 605, accompanying H.R. 4739, 101st Cong., 2d sess. (1990).

[4] S. Rep. No. 103-112 (Committee on Armed Services), at 145, accompanying S. 1298, 103d Cong., 1st sess. (1993).

[5] H.R. Rep. No. 103-357 (Committee of Conference), at 678, accompanying H.R. 2401, 103d Cong., 1st sess. (1993).

[6] National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, Title VI, Subtitle C, Sec. 621, 126 Stat. 1632 (2013).

Chapter V.C.8.
Personal Money Allowance / Special Position Allowance

Legislative Authority: 37 U.S.C. §414. Also see 37 U.S.C. §413.

Purpose: To partially reimburse the Chairman and Vice Chairman of the Joint Chiefs of Staff, the chiefs of staff of the various armed forces,[1] officers in pay grades O-9 and O-10, and Navy officers occupying five specified positions, for various expenses they may reasonably be expected to incur in entertaining and extending hospitality to visiting officers and dignitaries of the United States and foreign countries.

Background: The Act of June 10, 1922 (Joint Service Pay Readjustment Act of 1922), ch. 212, Pub. L. No. 67-235, §8, 42 Stat. 625, 629 (1922), established a personal money allowance (PMA) of $2,200 a year for Navy rear admirals serving in the grade of admiral or as Chief of Naval Operations and an annual $500 PMA for those serving in the grade of vice admiral. As explained to Congress, the rationale supporting PMA was:

> The last sentence of this section prescribes the additions to be made to the pay of rear admirals of the Navy when serving temporarily in the higher grades of vice admiral, admiral, or as Chief of Naval Operations. The money allowances prescribed for this purpose are placed at the figures given so as to preserve the same relative total compensation under the proposed schedule as under the present law. The addition is made to the pay of these officers rather than to their allowances as recognition of the responsibilities of their assignment.[2]

The provision of a PMA for Navy officers in the Joint Service Pay Readjustment Act of 1922, ch. 212, *id*., §8, 42 Stat. 629, but not for Army officers stemmed from differences in the services' appointment authorities. The highest permanent grade in the Navy was rear admiral and, except for the general of the armies, who was under a separate pay scale, the highest permanent grade in the Army was major general. While the Navy had authority to make temporary appointments to higher grades, the Army did not. The Act of February 23, 1929, ch. 298, Pub. L. No. 70-796, 45 Stat. 1255 (1929), moved the services closer together in this respect. It authorized the appointment of the Army Chief of Staff to the grade of general and concomitantly gave him the same entitlement to PMA as prescribed for the Chief of Naval Operations. The Act of August 5, 1939, ch. 454, Pub. L. No. 76-290, 53 Stat. 1214 (1939), authorized the appointment of certain Army commanders to the grade of lieutenant general and entitled them to the same PMA prescribed for Navy vice admirals.

The Pay Readjustment Act of 1942, ch. 413, Pub. L. No. 77-607, §7, 56 Stat. 359, 362 (1942), added certain officers to the PMA eligibility list and consolidated the various provisions of law authorizing the allowance into one statute, but it made no change in the nature, purpose, or rates of PMA.

The Officer Personnel Act of 1947, ch. 512, Pub. L. No. 80-381, §504(e), 61 Stat. 795, 888 (1947), raised the PMA rate to $4,000 a year for the four military service chiefs. In explaining this action, the House Armed Services Committee commented:

> A supplemental allowance was also provided for the Chiefs of the four services in recognition of their added obligations as compared with other four-star officers.[3]

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[1] For this purpose, the term "armed forces" is defined as meaning the Army, Navy, Air Force, Marine Corps, and Coast Guard. See 37 U.S.C. §101(4) (1988).

[2] *Hearings of March 18, 1922, on H.R. 10972 before a Special Committee of the House of Representatives*, 67th Cong., 2d sess., 28 (1922). (The legislative history offers no clue as to why these "additions to be made to the pay" of certain Navy officers was given the title "personal money allowance.")

[3] H.R. Rep. No. 640 (Committee on Armed Services), at 12, accompanying H.R. 3830, 80th Cong., 1st sess. (1947).

In thus indicating that PMA was authorized "in recognition of ... added obligations" of senior officers, it may be argued that Congress intended to change PMA from being compensation-based to being reimbursement-based. The so-called Hook Commission, which in 1948 conducted a comprehensive study of the military compensation system, apparently concluded that such a change of purpose had occurred. The commission addressed the reasons underlying PMA in these terms:

> The Commission considers that personal money allowances for high-ranking general and flag officers should be established definitely. Responsibilities of these officers and the maintenance of the prestige of such grade invariably entail entertainment and hospitality obligations. Nominal annual sums of $4,000 for a chief of staff and $2,200 and $500 for general and lieutenant general, respectively, which are authorized today, are therefore proposed as appropriate complements to the recommended increase in basic compensation.[4]

The Hook Commission's recommendations led to the introduction and enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §304, 63 Stat. 802, 816 (1949), the basic source for the present PMA authority. Congress evidently agreed with the commission's view that PMA should be seen as a form of reimbursement for expenses incurred. The allowance was incorporated into the Career Compensation Act of 1949 exactly as recommended by the commission after only a perfunctory discussion that brought forth no dissenting view.[5]

Congress has taken no further explicit action in regard to PMA since 1949, but it has enacted two items of legislation that have a bearing on and reinforce the reimbursement-based purpose of the allowance.

The Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, §2(3), 69 Stat. 18, 19 (1955), gave generals and admirals an entitlement to an "additional increment of basic pay" of $200 a month and lieutenant generals and vice admirals to an "additional increment" of $100 a month, on top of their regular compensation and in addition to any PMA. The grades of major general or rear admiral (upper half) were still the highest grades for purposes of regular compensation. The "additional increment" was extra pay awarded to recognize the increased responsibility of a three-star or four-star officer as compared with a two-star officer. This, of course, was the same purpose for which PMA was first created. Had PMA been still fulfilling a pay-supplement purpose, it and the "additional increment" would have duplicated each other. There is nothing whatsoever in the legislative record to suggest that Congress intended to permit any such duplicate extra compensation.

The Act of May 20, 1958, Pub. L. No. 85-422, §1(2), 72 Stat. 122, 124 (1958), created the pay grades of O-9 and O-10 and prescribed special pay rates for service chiefs. The establishment of pay grades above the major general/rear admiral level recognized, for purposes of military compensation, the added responsibilities of three-star and four-star officers as compared to two-star officers. Notwithstanding this provision of higher regular compensation for the higher grades, PMA was not mentioned during the bill's consideration, and the PMA entitlement for such grades was not disturbed. If PMA was still serving as "extra compensation," the revision of the regular pay structure to include special rates of pay for three- and four-star officers would arguably have done away with any need for PMA, and it would seem only logical that PMA authority should have been repealed, just as the "additional increment of basic pay" deriving from the Career Incentive Act of 1955 was repealed.

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[4] *Career Compensation for the Uniformed Forces*, A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay, December 1948, 38.

[5] The provisions for a personal money allowance contained in Section 304 of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, §304, 63 Stat. 802, 816 (1949), were classified to 37 U.S.C. §254. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), the provisions for a personal money allowance were codified at 37 U.S.C. §414(a), *id*., 76 Stat. 476–77 (1962). Also see footnote 6 to this chapter, below.

The current PMA rates are $4,000 a year for the Chairman and Vice Chairman of the Joint Chiefs of Staff and the chiefs of staff of each of the services;[6] $2,200 a year for other generals and admirals; and $500 a year for lieutenant generals and vice admirals.[7] For payment purposes, the annual PMA is converted to monthly rates and paid to eligible officers on a *pro rata* basis the same as other pay and allowances.

The rates of the allowance are the weakest link in the chain connecting it to a reimbursement-based purpose. The $2,200 and $500 rates were established in 1922 to preserve the then-existing relative total compensation among Navy officers of the top three grades, but have not been changed since. There is no traceable relationship between these rates and the expenses eligible officers incur in fulfilling entertainment and hospitality obligations. The $4,000 rate was established in 1947 and appears to have been based more on an off-the-cuff estimate than on careful calculations. However that may be, any relationship the $4,000 rate may have had to the applicable expenses in 1947 has been warped out of shape by the drastic changes that have occurred in the prices of goods and services in the succeeding years. The Hook Commission found the annual PMA rates in 1949 appropriate reimbursement for hosting and entertainment expenses incurred by affected officers. If PMA rates had been increased on the basis of changes in the Consumer Price Index since 1949, significantly higher PMA rates would be in existence today.

The Act of August 2, 1946, ch. 756, Pub. L. No. 79-604, §3, 60 Stat. 853 (1946), established a "special position allowance," presently codified at 37 U.S.C. §414(b),[8] of $5,200 a year for the Superintendent of the Naval Academy and the Director of Naval Intelligence; $1,000 a year for the President of the Naval War College; $800 a year for the Commandant of Midshipmen at the Naval Academy; and $400 a year for the Superintendent of the Naval Postgraduate School. The special position allowance and the PMA are not mutually exclusive; an officer above the grade of rear admiral is entitled to both allowances whenever assigned to one of the positions that qualifies for the special position allowance.

The purpose of the special position allowance is to partially reimburse the officers occupying the named positions for official entertainment and hosting expenses, as the following colloquy reflects:

> Mr. Cole: What is the reason for these extra allowances other than for entertainment?
>
> Captain Nunn: That is all, sir....
>
> ... This is an entertainment fund for these individual officers, and the contingent fund of the Secretary [of the Navy] is also available for that purpose.
>
> . . .
>
> Mr. Grant: What comes within the responsibility of the head of the Naval Academy that makes him spend $100 a week for entertainment?

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[6] Entitlement to the personal money allowance was extended to the Chairman of the Joint Chiefs of Staff by the Act of September 7, 1962, Pub. L. No. 87-649, §413, 76 Stat. 451, 476 (1962), which enacted Title 37, United States Code, into positive law, and to the Vice Chairman of the Joint Chiefs of Staff by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §1314(c)(1), 101 Stat. 1019, 1176 (1987). See 37 U.S.C. §413.

[7] A lieutenant general or vice admiral serving as a senior member of the Military Staff Committee of the United Nations is, while serving in that position, entitled to an additional PMA of $2,200 per year.

[8] The provisions for a special position allowance of the Act of August 2, 1946, ch. 756, Pub. L. No.79-604, §3, 60 Stat. 853 (1946), were classified to 37 U.S.C. §257. Later, when Title 37 of the United States Code was enacted into positive law by the Act of September 7, 1962, Pub. L. No. 87-649, 76 Stat. 451 (1962), these provisions were codified at 37 U.S.C. §414(b), *id*., §414(b), 76 Stat. 477 (1962). No reason was given for codifying the special position allowance in the same section of Title 37 as PMA. Perhaps the similarity of the purposes underlying the two allowances, together with the fact that they are applicable to flag and general officers, led to their inclusion under the same section heading. (Parenthetically, it may be noted that the catchline, or heading, of 37 U.S.C. §414 is "Personal Money Allowance".)

> Captain Nunn: Visiting dignitaries, sir. He entertains most of the national figures that come to this country. They review the regiment of midshipmen and are entertained down there.[9]

The law provides that each of the five naval officers singled out in 37 U.S.C. §414(b) may spend the special position allowance "in his discretion for the contingencies of his position." Payment or accounting methods are not specified in any law or regulation; hence, the procedures used to pay and account for the allowance vary among the different positions for which it is authorized. However, as a matter of practice and in keeping with good business principles, most recipients account for how the allowance is spent.

The special allowance for the five specified Navy positions has no statutory counterpart in the other services, but funds that may be used for official courtesy, hosting, and entertainment purposes are available to the other services from different sources. Annual appropriation acts permit, within the monetary limits set in each act, the use of funds appropriated for operation and maintenance of the Army, Navy, Air Force, and defense agencies for "emergencies and extraordinary expenses," subject to the approval or authorization of the appropriate service Secretary. The Secretary concerned allocates part of these funds to extend courtesies and provide entertainment to dignitaries and officials of the United States and foreign countries. These funds are available to flag and general officers as well as other personnel. Under certain conditions, expenditures are also made from non-appropriated funds for the same or similar purposes. Nevertheless, the legacy from pre-unification days of the law, singling out the holders of five Navy positions for a special entertainment allowance to the exclusion of officers holding similar positions in the other services, is basically incongruous with the principle that entitlements to pay and allowances should be uniform among all comparable service members to the extent practicable.

For federal income-tax purposes, both PMA and special position allowances are includible in gross income, although with proper reporting, record keeping, and substantiation, expenditures made to defray the types of expenses for which the allowances were intended may be deducted as business expenses.

Current rates of personal money allowance and special position allowance authorized:

Personal money allowance: Personal money allowance is currently authorized for military personnel in pay grades O-10 and O-9 at rates ranging from $500 to $4,000 per year depending on the pay grade and duty assignment. The National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654A-149 (2000), authorized a personal money allowance of $2,000 per year for senior enlisted members serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, Master Chief Petty Officer of the Coast Guard, and the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff or the Senior Enlisted Advisor to the Chief of the National Guard Bureau.[10]

Special position allowance: Special position allowance is currently authorized for certain Navy personnel at rates ranging from $400 to $5,200 per year depending on duty assignment. Navy officers in pay grades O-10 and O-9 who are entitled to special position allowance because of their duty assignment are also entitled to personal money allowance appropriate to their grade.

Cost: For the cost of personal money allowances from 1972 to 2016, see table V-8, below.

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[9] *Hearings of June 26, 1946, on S. 1917, To Enact Certain Provisions Now Included in the Naval Appropriation Act, 1946, and for Other Purposes*, printed in *Hearings before the House Committee on Naval Affairs on Sundry Legislation Affecting the Naval Establishment, 1946*, 79th Cong., 2d sess., 3535–36 (1946).

[10] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, Title VI, Subtitle A, Sec. 603(c), 128 Stat. 3292, 3398 (2014).

Table V-8. Personal Money Allowance and Special Position Allowance, 1972–2016

	Personnel (Officers)			Cost ($000)			Personnel (Enlisted)		All Personnel	
Fiscal Year	PMA	SPA	Total	PMA	SPA	Total	PMA	Cost ($000)	Total	Total Cost ($000)
1972	183	5	188	$180	$13	$193	---	---	188	$193
1973	178	5	183	173	13	186	---	---	183	186
1974	175	5	180	177	13	190	---	---	180	190
1975	162	5	167	170	13	183	---	---	167	183
1976	155	5	160	161	13	174	---	---	160	174
1977	154	5	159	165	13	178	---	---	159	178
1978	151	5	156	165	13	178	---	---	156	178
1979	146	5	151	159	13	172	---	---	151	172
1980	141	5	146	156	13	169	---	---	146	169
1981	145	5	150	156	13	169	---	---	150	169
1982	148	5	153	147	13	160	---	---	153	160
1983	156	5	161	154	13	167	---	---	161	167
1984	158	5	163	155	13	168	---	---	163	168
1985	162	5	167	158	13	171	---	---	167	171
1986	162	5	167	158	13	171	---	---	167	171
1987	160	5	165	154	13	167	---	---	165	167
1988	161	5	166	156	13	169	---	---	166	169
1989	161	5	166	158	13	171	---	---	166	171
1990	157	5	162	156	13	169	---	---	162	169
1991	157	5	162	156	13	169	---	---	162	169
1992	156	5	161	157	13	170	---	---	161	170
1993	147	5	152	149	13	162	---	---	152	162
1994	144	5	149	147	13	160	---	---	149	160
1995	146	5	151	149	13	162	---	---	151	162
1996	148	5	153	146	13	159	---	---	153	159
1997	153	5	158	154	13	167	---	---	158	167
1998	152	5	157	154	13	167	---	---	157	167
1999	156	5	161	151	13	164	---	---	161	164
2000	154	5	159	149	13	162	---	---	159	162
2001*	150	5	155	148	13	161	3	6	158	167
2002	153	5	158	148	13	161	3	6	161	167
2003	156	5	161	159	13	172	3	6	164	178
2004	161	5	166	153	13	166	3	6	169	172
2005	171	5	176	176	13	189	3	6	179	195
2006	179	5	184	174	13	187	3	6	187	193
2007	203	5	208	180	13	193	3	6	211	199
2008	210	5	215	178	13	191	3	6	218	197
2009	191	---	191	175	---	175	3	6	194	181
2010	179	---	179	162	---	162	1	2	180	164
2011	215	---	215	195	---	195	2	4	217	199
2012	199	---	199	176	---	186	3	6	202	192

	Personnel (Officers)			Cost ($000)			Personnel (Enlisted)		All Personnel	
Fiscal Year	**PMA**	**SPA**	**Total**	**PMA**	**SPA**	**Total**	**PMA**	**Cost ($000)**	**Total**	**Total Cost ($000)**
2013	210	---	210	189	---	189	4	8	214	197
2014	204	---	204	198	---	198	4	8	208	206
2015	207	---	207	189	---	189	4	8	211	197
2016[1]	158	---	158	203	---	203	3	6	161	209

--- No data available.

Note: * Personal Money Allowance (37 U.S.C. 414) for enlisted personnel started in 2001.

–[1] The figures for 2016 are estimates.

Sources: Department of the Air Force, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel Appropriation*; Department of the Army, *Fiscal Year (FY) 2011–17 Budget Estimates, Military Personnel, Army Justification Book*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Marine Corps*; Department of the Navy, *Fiscal Year (FY) 2011–17 Budget Estimates, Justification of Estimates, Military Personnel, Navy.*

Chapter V.C.9.
Reimbursement for Recruiting Expenses

Legislative Authority: 37 U.S.C. §488[1]

Purpose: To reimburse members of the armed forces assigned to recruiting duties for the actual and necessary out-of-pocket expenses they experience in performing those duties.

Background: Members on recruiting duty have, by the very nature of the duty, long been put to small but frequent personal expense for such items as snacks, lunches, coffee, etc., for prospective recruits or candidates, parking fees and telephone calls while away from the recruiting station, the purchase of copies of birth certificates, school transcripts, diplomas, etc., for applicants or prospective applicants, and so forth. Until 1971, none of these expenses was reimbursable. In the Act of September 28, 1971, Pub. L. No. 92-129, §205(a), 85 Stat. 348, 359 (1971), Congress, recognizing that such expenses were properly a cost of conducting government business and that individual recruiters should not have to bear them personally, accordingly authorized their reimbursement.

The Department of Defense had initially recommended that recruiting personnel be paid a fixed monthly allowance to help defray, on average, the official out-of-pocket expenses they incurred in connection with recruiting duties. The "average-allowance" proposal did not find its way into enacted legislation, but the title "Allowance for Recruiting Expenses" went into general use. It is something of a misnomer for what actually is a reimbursement of actual and necessary expenses.

A member must submit a voucher to claim reimbursement of actual and necessary recruiting expenses, itemizing the expenses claimed. Any individual item over $25 must be supported by a receipt if practical, or an explanation of why it was not practical to furnish a receipt. Reimbursement vouchers must be approved at recruiting main stations, detachments, or higher levels before they can be paid. Except in unusual cases, such reimbursements may not exceed $60 per recruiter for any month.

Cost: For the cost of reimbursement for recruiting expenses from 1972 to 1995, see table V-9, below.

Table V-9. Reimbursement for Recruiting Expenses, 1972-1995

Fiscal Year	Total Personnel	Cost ($000)
1972	10,094	$870
1973	13,728	2,823
1974	15,120	3,532
1975	14,863	3,599
1976	15,117	4,187
1977	14,603	3,870
1978	14,679	3,890
1979	15,942	4,187
1980	16,544	4,757
1981	16,997	6,956
1982	15,617	5,865
1983	15,519	4,212
1984	15,444	3,879
1985	16,389	4,896

[1] National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, Title VI, Subtitle D, Sec. 631, 125 Stat. 1298, 1452-1465 (2011).

Fiscal Year	Total Personnel	Cost ($000)
1986	4,591	2,248
1987	11,981	5,211
1988	11,673	4,976
1989	12,071	5,095
1990	13,002	5,482
1991	4,654	12,264
1992	4,934	11,862
1993	4,514	11,406
1994	4,047	10,791
1995	4,484	11,353

Note: These reimbursements are made from operations and maintenance rather than military personnel funds. No breakdown between officer and enlisted personnel is maintained.

BACKGROUND AND LEGISLATIVE HISTORY OF THE ARMED FORCES LEAVE ACT OF 1946 AND ITS AMENDMENTS

The Armed Forces Leave Act of 1946, ch. 931, Pub. L. No. 79-704, 60 Stat. 963 (1946), as amended and codified, is the source of the current military leave system. Before its enactment, officers were, under the Act of May 8, 1874, ch. 154, 18 Stat. 43 (1874), the Act of July 29, 1876, ch. 239, 19 Stat. 102 (1876), and the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1004, 1007 (1899), entitled to one month's leave per year and could accumulate such leave to a total of four months. Lump-sum payments were not authorized for unused accrued leave, but officers could be compensated for such unused leave through the granting of "terminal" leave. Under this procedure, an officer, after being relieved from active duty for all practical purposes, remained on the active-duty rolls in a paid leave status to the extent of accumulated leave.

There was no comparable authority for enlisted personnel, although regulations authorized paid "furloughs" of up to 30 days a year for such personnel. Since such furloughs had no statutory basis, any unused portion thereof did not accrue to an enlisted member's credit. Any unused furlough time was therefore "lost" instead of being terminally compensated for as in the case of officers.

In the Armed Forces Leave Act of 1946, ch. 931, *id*., Congress intended to equalize the treatment of officers and enlisted personnel with respect to leave, both for World War II and thereafter. To this end, the act provided that:

> A. Effective September 1, 1946, all military personnel would earn leave at the rate of 2 1/2 days per month of active service and could accumulate such leave to a total of 60 days.
>
> B. On or after September 1, 1946, enlisted personnel were entitled, by virtue of their statutory right to earn and accumulate leave, to terminal leave on the same basis as officers upon separation under honorable conditions.
>
> C. Enlisted personnel were deemed to have earned leave at a rate of 2 1/2 days per month during active service from September 8, 1939, through August 31, 1946. Those discharged before September 1, 1946 (unless on active duty on that date), were entitled to a lump-sum payment for not more than 120 days of unused leave computed on such a basis.
>
> D. Officers and enlisted personnel on active duty on September 1, 1946, were entitled to an initial credit for actual or "deemed" leave accumulated as of August 31, 1946, or, if the accumulation was more than 60 days, to an initial credit of 60 days and a lump-sum payment for the number of days in excess of 60. However, the unused leave entitlement of any member on active duty on September 1, 1946, was limited to a number of days which, when combined with the member's initial leave credit, did not exceed 120 days.

The lump-sum payments authorized by the act were, with minor exceptions, to be made in five-year Treasury bonds issued in multiples of $25—with any odd amount paid in cash—bearing interest at the rate of 2 1/2 percent per year. Other than for use in connection with government life insurance policies, the bonds were not negotiable or transferable and, except as to interest, were not subject to taxation.

The legislative history of the Armed Forces Leave Act, ch. 931, *id*., makes it clear that Congress included provisions authorizing leave accumulation and the granting of terminal leave and, later, the payment for unused accrued leave only in order not to discriminate against individuals who were prevented by bona fide military requirements and exigencies from taking leave on a current basis. This congressional intent, as currently reflected in 10 U.S.C. §704(b)(3), was expressed by the Chairman of the Senate Military Affairs Subcommittee:

> The subcommittee does not want to discontinue a leave of 2 1/2 days, an earned leave of 2 1/2 days a month, but it wants that leave taken in the current year. We believe that the military service will benefit by a leave taken during the current year and that an accumulated

> leave has a commercial aspect of men cashing in on a terminal leave which they should have taken.
>
> We want them to have the leave as all other employees of the Government have, but we want them to take that leave because, if there is any good result to come from a leave, it must come from the exercise of the leave, not to make it a boost in pay.[1]

Although there has been no fundamental change to the military leave system created by the Armed Forces Leave Act, a number of important revisions have been made since 1946.

The Act of July 26, 1947, ch. 344, Pub. L. No. 80-253, §1, 61 Stat. 510 (1947), changed the medium of payment for unused leave from bonds to cash and made already-issued bonds redeemable after September 1, 1947, regardless of maturity date. As a concomitant to the elimination of bonds as a medium of payment, the act removed the provision making the bonds tax exempt. Thus, the basic pay element of payments for unused accrued leave became subject to taxation, while the allowances part was tax exempt.[2]

The Act of August 4, 1947, ch. 475, Pub. L. No. 80-350, §1,61 Stat. 748, 748–49 (1947), repealed the authority under which terminal leave was granted and as a substitute authorized lump-sum cash payments for unused accrued leave to officers and enlisted personnel separated on and after August 4, 1947.

In a 1949 decision, the Comptroller General of the United States ruled that the Armed Forces Leave Act did not permit an interim accumulation of leave in excess of 60 days during a fiscal year and, once a member had accumulated 60 days, the member could accumulate no further leave until the 60 days had been reduced by the actual taking of leave.[3] The Act of September 23, 1950, ch. 998, Pub. L. No. 81-818, §1, 64 Stat. 978, 978–79 (1950), directly addressing the Comptroller General's ruling, provided that leave taken during a fiscal year may be charged to leave accumulated during that fiscal year, thus allowing a member to, in effect, accumulate more than 60 days of unused leave between accounting periods.

Under the Armed Forces Leave Act of 1946, ch. 931, Pub. L. No. 79-704, 60 Stat. 963 (1946), leave accumulated by a member did not survive the member's death on active duty. The Act of August 28, 1965, Pub. L. No. 89-151, §2, 79 Stat. 586 (1965), authorized payment to an eligible survivor for the unused accrued leave credited to a deceased member on the date of the member's death, subject to the 60-day maximum.[4]

The Act of January 2, 1968, Pub. L. No. 90-245, §1, 81 Stat. 782 (1968), permitted a member who had served at least 120 days in a hostile fire pay area to accumulate up to an additional 30 days of unused leave for a total of 90 days. The Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, §10, 94 Stat. 3359, 3368 (1980), extended this authority to members "assigned to a deployable ship, mobile unit, or to other duty" specially designated for the purpose in question. Leave accumulated in excess of 60 days must be separately accounted for. Such leave is "lost" unless used by the member before the end of the third fiscal year

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[1] *Armed Forces Leave Act of 1946: Hearings on H.R. 4051 before a Subcommittee of the Senate Committee on Military Affairs*, 79th Cong., 2d sess., 4 (1946) (introductory statement of Senator Johnson).

[2] Payments for unused accrued leave were initially computed on the basis of basic pay and the basic allowances for quarters and subsistence, as well as the personal money allowance of certain senior officers. Under amendments to 37 U.S.C. §501 made by the Department of Defense Appropriation Authorization Act, 1977, Pub. L. No. 94-361, §304, 90 Stat. 923, 925–26 (1976), payments for unused accrued leave are now computed on the basis of basic pay only. See 37 U.S.C. §501(b)(1). See also discussion of the 1977 Appropriation Authorization Act and the reasons for its adoption in the text accompanying footnotes 2 through 4 to this chapter, above.

[3] 29 Comp. Gen. 83 (1949).

[4] The 60-day limit on payments for unused leave to the survivors of military decedents was effectively repealed by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §641(a), 110 Stat. 186, 368 (1996). See S. Rep. No. 104-112 (Committee on Armed Services), at 258, accompanying S. 1026, 104th Cong., 1st sess. (1995); *cf.* H.R. Rep. No. 104-406 (Committee of Conference), at 819, accompanying H.R. 1530, 104th Cong., 1st sess. (1995), and H.R. Rep. No. 104-450 (Committee of Conference), at 809, accompanying S. 1124, 104th Cong., 2d sess. (1996).

following the fiscal year in which the leave was accrued.[5] In adopting this legislation, Congress intended to recognize the inability of members assigned to certain duty areas to use all the leave they earned. This provision, codified at 10 U.S.C. §701(f), gives affected members three extra years in which to use rather than lose leave that could not, due to "military exigencies,"[6] be used. In effect, it puts affected members on a par with members not constrained by "military exigencies" with respect to the use or loss of earned leave.

The Act of October 27, 1972, Pub. L. No. 92-596, §1(2), 86 Stat. 1317, 1317–1318 (1972), authorized a member in a missing status to accumulate unused earned leave without limitation from the time such status began until the member returned to U.S. custody or until the date the member's death is determined to have occurred. If, however, the missing member's death is determined to have actually occurred between the date the member entered a missing status and the end of the fifth year of such a status, the member's leave accumulation is limited to 150 days in addition to leave accumulated before entering a missing status. If a presumptive date of death is determined, a member is likewise limited to 150 days of leave accumulation, plus leave accumulated before entering a missing status. Leave accumulated in a missing status is separately accounted for and cannot be used. It must be reimbursed to the member if the member returns to U.S. custody or to the member's survivor if a determination of death is made. The term, "missing status," is defined at 37 U.S.C. §551(2) for purposes, among others, of leave entitlements and accumulation under 10 U.S.C. §701(g).[7]

Although not an amendment to the Armed Forces Leave Act of 1946, ch. 931, Pub. L. No. 79-704, 60 Stat. 963 (1946), as amended and codified, the Employment Security Amendments of 1970, Pub. L. No. 91-373, §107, 84 Stat. 695, 701 (1970), touched on unused accrued leave payments. An earlier law, the Act of September 6, 1966, Pub. L. No. 89-554, §8524, 80 Stat. 378, 591 (1966), which had enacted Title 5, United States Code, into positive law, made former members of the uniformed services eligible for unemployment compensation from their state of residence during periods of unemployment following military service. Section 8524 of Title 5, United States Code, 5 U.S.C. §8524, however, barred eligibility for unemployment compensation in all states for any period covered by a payment for unused accrued military leave, regardless of the state law. At the time, some states considered accrued leave payments as current wages—i.e., as compensation for contemporaneous work—with the result that a person in receipt of a payment for unused leave would be considered employed for the period for which he/she was receiving such payments and accordingly not entitled to unemployment compensation for that period; other states considered such payments to be for past services—not contemporaneous work—with the result that an individual in receipt of such payments would not be disqualified from receiving unemployment compensation. The Employment Security Amendments of 1970, Pub. L. No. 91-373, *id*., repealed 5 U.S.C. §8524, thus permitting accrued military leave to be treated in each state the same as accrued leave of other unemployed persons.

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[5] Before adoption of the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §1031, 97 Stat. 614, 671 (1983), this special additional leave accumulation had to be used before the end of the fiscal year following the fiscal year in which it was accrued. The 1984 Authorization Act extended the period within which this excess leave must be used on pain of otherwise being lost to the end of the third fiscal year following the fiscal year it was accrued.

[6] S. Rep. No. 98-174 (Committee on Armed Services), at 231, accompanying S. 675, 98th Cong., 1st sess. (1983).

[7] For a more detailed discussion of military pay and benefits entitlements of persons in a "missing status," see that portion of Appendix VII, "Special Pay and Other Benefits for Missing Persons, Prisoners of War (POWs), and Victims of Terrorism," titled "Missing Persons," below.

Appendix I
Department of Defense Military Retirement Fund

Legal Authority: 10 U.S.C. §§1461–1467.

Background: Before enactment of the Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, 97 Stat. 614 (1983), the military retirement system was funded on a "pay-as-you-go" basis. Every year as a part of the budgetary processes of the federal government, estimates were made of the aggregate entitlements to retired and retainer pay of personnel on, or expected to be on, the retired lists of the various military departments that year, and Congress, through the appropriations process, appropriated moneys to pay for, or fund, those entitlements. If the original budget estimates were accurate, all of the appropriated moneys were paid out to military retirees in the year in which they were appropriated. In short, the military retired and retainer pay liabilities of the federal government were paid for out of current federal revenues, not out of a fund that had been built up as those liabilities were accruing. In fact, there was no fund from which the retired and retainer pay obligations of the federal government were met, and the military retirement system was, on that account, said to be "unfunded." The retired and retainer pay of retired members of the armed forces—as well as of future retirees—were, in some sense, obligations of the federal government, but no moneys had been set aside to defray them.

The Department of Defense Authorization Act, 1984, Pub. L. No. 98-94, §925(a)(1), 97 Stat. 614, 644–48 (1983), established effective October 1, 1984, a new Department of Defense function known as the "Department of Defense Military Retirement Fund," which is codified under that heading as Chapter 74 of Title 10, United States Code, 10 U.S.C. §§1461–1467. As stated at 10 U.S.C. §1461(a), the purpose underlying establishment of the fund was straightforward:

> ... The [Department of Defense Military Retirement] Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis liabilities of the Department of Defense under military retirement and survivor benefit programs.

The Department of Defense Military Retirement Fund is a fund, "established on the books of the [United States Department of the] Treasury ... [and] administered by the Secretary of the Treasury" [10 U.S.C. §1461(a)], from which the retired and retainer pay obligations of the federal government to retired members of the Army, Navy, Air Force, and Marine Corps[1] are to be met.[2] [3] [See 10 U.S.C. §1463(a)(1)–(3).] In addition, obligations of the federal government, arising under the Survivor Benefit Plan, to the survivors of deceased members and former members of the armed forces are to be paid from the fund. [See 10 U.S.C. §1463(a)(4).]

The assets of the fund used to defray the obligations of the federal government for retired and retainer pay and survivor annuities come from three sources. [See 10 U.S.C. §1462.] First, the Secretary of Defense is required to make monthly payments into the fund from moneys appropriated by Congress for the pay and allowances of members of the armed forces on active duty and in the Ready Reserve. [See 10 U.S.C. §1466(a).] The actual amount of money transferred to the fund by the Secretary of Defense for a

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[1] As well as to members of the Navy and Marine Corps transferred to the Fleet Reserve and Fleet Marine Corps Reserve, respectively.

[2] The Army, Navy, Air Force, and Marine Corps are the only components of the uniformed services covered by the Department of Defense Military Retirement Fund. Retirement and survivor benefit obligations of the federal government to retired members and survivors of deceased members or former members of the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration are not covered by the fund. For this reason, the term "armed forces," as used in the discussion of various provisions of the Department of Defense Military Retirement Fund in the remainder of this appendix, is restricted to those uniformed services under the direct jurisdiction of the Department of Defense.

[3] Retired-pay obligations accruing on account of non-regular service, i.e., on account of reserve service, are also to be met from the Department of Defense Military Retirement Fund.

given month is computed, using actuarial techniques, as a percentage (i) of the total basic pay paid that month to members of the armed forces on active duty and (ii) of the total basic pay and compensation[4] paid to members the Ready Reserve. [See 10 U.S.C. §1466(a).] Cutting through the technical language of actuarial science, the amount of money paid into the fund for a given month is supposed to cover the future retirement costs associated with the active-duty and reserve service paid for by the basic pay and reserve compensation against which the "actuarially determined" percentage factor is applied in determining the contribution required for that month. Second, the Secretary of the Treasury is required to make an annual contribution, "[a]t the beginning of each fiscal year ... from the General Fund of the Treasury" [10 U.S.C. §1466(b)(1)], in an amount that will, over time, amortize the unfunded liability of the Department of Defense Military Retirement Fund for retired and retainer pay and survivor annuity entitlements associated with prior active duty and reserve service.[5] Third, the Secretary of the Treasury is required to invest the various assets of the fund "in public debt securities with maturities suitable to the needs of the Fund" [10 U.S.C. §1467], and the return earned on these investments is also available to defray the obligations of the fund. The assets of the fund—coming from the three sources identified above—are specifically "made available for payment" of the obligations of the fund. [See 10 U.S.C. §1463(b).]

The plan adopted by Congress for dealing with and accounting for military retired and retainer pay and survivor annuities—the Department of Defense Military Retirement Fund—established what is frequently referred to as an "accrual accounting system" for dealing with such obligations. As is true of any retirement accrual accounting system, the system in issue gives Congress and the Department of Defense direct and immediate information on the future retirement costs associated with current manpower decisions. Under the system adopted, the pay and allowances accounts for members of the armed forces are larger—by approximately 51 percent of basic pay[6]—than they would be if the system had not been adopted. The following table shows the ratio of assets in the fund to the actuarial accrued liability (alternatively known as the 'Percent Funded' ratio), which is a common measurement of the funding progress of a pension plan, for the fiscal years 1985 through 2015.[7]

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[4] As used in this appendix, the term "reserve compensation" covers pay to members of reserve components for inactive-duty training under 37 U.S.C. §206.

[5] As is true whenever a retirement fund is first established for an existing retirement system, money is needed for two different sets of costs that the fund will eventually have to bear. First, money is needed to pay for the retirement obligations accruing as a result of current service for personnel who will someday become entitled to retirement pay from the fund. Second, money is also needed to pay for retirement obligations already earned for past service—including not only persons already retired but also currently employed persons who have some past retirement-creditable service of one sort or another and who will someday retire. In the case of the Department of Defense Military Retirement Fund, Congress made the decision to amortize the initial unfunded liability of the fund for past service—which was determined to be $528.7 billion as of September 30, 1984—over a period of time. The annual payments to the fund from the General Fund of the Treasury are intended to accomplish just that.

[6] See, e.g., S. Rep. No. 99-292 (Committee on Armed Services), at 3, accompanying S. 2395, 99th Cong., 2d sess. (1986) (relating to the legislative proposal ultimately enacted as the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), but discussing the Department of Defense Military Retirement Fund).

[7] Source: United States Department of Defense, *Valuation of the Military Retirement System*, September 30, 2015, Table A-1, http://actuary.defense.gov. For this ratio, prior editions included in the denominator only the present value of future benefits to currently retired and survivor annuitant recipients. In this edition the denominator also includes the portion of the present value of future benefits to current active duty and reserve members earned with prior military service. The source has also changed from the *Military Retirement Fund Audited Financial Statements* to the DoD Office of the Actuary's *Valuation of the Military Retirement System*. Note that differences in standards governing the measurement of retirement liabilities and assets, depending on the purpose of the measurement, can cause values for this ratio to vary in different settings.

End of Fiscal Year	Ratio of Assets to Actuarial Accrued Liability ('Percent Funded')
1985	2.1%
1986	4.3
1987	6.6
1988	9.7
1989	11.6
1990	13.1
1991	15.5
1992	17.1
1993	18.4
1994	20.2
1995	20.7
1996	21.6
1997	22.4
1998	23.1
1999	23.7
2000	23.8
2001	23.9
2002	24.5
2003	22.5
2004	22.0
2005	22.0
2006	21.4
2007	20.9
2008	21.9
2009	23.5
2010	26.3
2011	29.5
2012	31.4
2013	35.3
2014	38.6
2015	42.4

A direct and immediate consequence of the adoption of an accrual accounting system for military retired and retainer pay and survivor annuities is that Congress has to appropriate money every year for retirement "expenditures" that do not in fact result in out-of-pocket cash outlays for the federal government, considered as a whole, for quite some time. The fact that such moneys have to be appropriated and are subsequently transferred from Department of Defense to Department of the Treasury accounts, however, means that the funds are treated for all practical purposes as though they had really been "spent" by the Department of Defense—as though they had in fact been disbursed—in the year in which they were appropriated. For this reason, both Congress and the executive branch of the federal government can reduce current defense "expenditures"—that is, they can "save" current defense budget dollars—by reducing the amount of money that is appropriated for transfer to the fund. That is, the defense budget can be reduced by reducing military retirement accruals, and this is what happened in the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), which generally reduced future entitlements to military retired and retainer pay for persons first becoming members of the uniformed services after July 31, 1986.[8]

[8] Although the Department of Defense Military Retirement Fund applies only to personnel in the Army, Navy, Air Force, and Marine Corps, the changes to the "military retirement system" effected by the Military Retirement Reform

The Retired Pay Reform of 2000, contained in the National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 662 (1999), essentially eliminated this reduction by returning most military personnel who entered service after July 31, 1986, to the retired-pay computation formula (the "high three") used before the1986 reform.[9]

As explained by Congress, the reasons for adoption of the Department of Defense Military Retirement Plan were as follows:

> Most retirement plans in the private sector are funded, either partially or fully, and the trend—as a result of the Employee Retirement and Income Security Act (ERISA)—is toward full funding. Security of a retirement plan, *i.e.*, the probability that promised benefits will be paid, is generally related to the method of funding. Full funding provides greater security than partial funding.
>
> Of course, the security of payments from the Federal government is not generally related to the method of funding. From the Federal government's perspective, the issue of funding is primarily a matter of timing. Should funds be raised by taxing and borrowing when the obligation becomes due, or should funds be set aside through taxing and borrowing when the obligation is incurred?[10] [11]

In establishing the Department of Defense Military Retirement Fund and the funding mechanism by which future retirement and survivor annuity costs associated with current-year service are dealt with, Congress gave a definitive answer to the rhetorical question it posed: Funds to defray future retirement and survivor annuity obligations of the federal government should be set aside as the obligations are incurred.

For budgeted allotments for retirement accruals from 1985 to 2009, see table A-1, below.

Table A-1. Department of Defense Military Retirement Fund, 1985–2016

Fiscal Year	Personnel	DoD Budget ($000)
1985	---	$16,964,332
1986	---	17,428,516
1987	2,154,330	16,784,600
1988	2,128,919	16,746,269
1989	2,110,591	16,888,566
1990	2,073,077	15,143,978
1991	2,128,798	16,171,676
1992	1,902,761	15,058,454

Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986), apply to all branches of the uniformed services—to the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration as well as to the Army, Navy, Air Force, and Marine Corps. Thus, the total savings over time for the federal government as a whole that are attributable to the changes in the retirement system under the Military Retirement Reform Act are actually larger than the immediate reduction in the basic pay accounts of the four armed services.

[9] For a more complete discussion of the changes to the military retirement system effected by the Military Retirement Reform Act of 1986, Pub. L. No. 99-348, 100 Stat. 682 (1986) and by the Retired Pay Reform of 2000, see Chapter III.B.1, "Nondisability Retired and Retainer Pay," above.

[10] H.R. Rep. No. 98-107 (Committee on Armed Services), at 225, accompanying H.R. 2969, 98th Cong., 1st sess. (1984).

[11] As indicated in the quoted excerpt, one of Congress's reasons for adopting the Department of Defense Military Retirement Fund was to provide a funding mechanism similar to private-sector retirement plans subject to the Employee Retirement Income Security Act (ERISA). While the funding mechanism adopted in fact succeeded in that regard, the military retirement system as a whole falls far short of meeting other, and basic ERISA standards—including vesting requirements.

Fiscal Year	Personnel	DoD Budget ($000)
1993	1,738,951	12,262,936
1994	1,646,871	11,757,447
1995	1,552,393	11,271,559
1996	1,478,229	10,266,559
1997	1,443,099	10,202,824
1998	1,410,687	9,590,795
1999	1,375,344	9,567,279
2000	1,368,723	10,424,647
2001	1,374,997	10,197,501
2002	1,451,532	11,810,300
2003	1,569,889	12,304,456
2004	1,575,694	12,830,047
2005	1,547,791	13,114,987
2006	1,492,000	12,735,934
2007	1,471,665	12,858,242
2008	1,227,508	14,246,922
2009	1,524,021	15,342,609
2010	1,544,512	17,653,802
2011	1,520,862	18,102,597
2012	1,484,350	18,961,012
2013	1,438,440	17,614,824
2014	1,398,836	17,573,101
2015	1,344,120	16,976,568
2016[1]	1,303,491	16,337,988

[1] Estimate.

Appendix II
Uniformed Services Former Spouses' Protection Act

Note: Resource constraints led to the decision not to update all of the health sections in this eighth edition of Military Compensation Background Papers. Chapter II.D.I contains relevant health-related information that has not been updated since 2008.

Legislative Authority: 10 U.S.C. §1408 and various provisions in Chapters 55 and 73 of Title 10, United States Code.

Background: The Uniformed Services Former Spouses' Protection Act, enacted as Title X of the Department of Defense Authorization Act, 1983, Pub. L. No. 97-252, Title X, §§1001–1006, 96 Stat. 718, 730–38 (1982), was adopted to remove certain limitations that barred state and local courts from judicial enforcement of financial orders arising out of divorce and separation actions involving members of the armed forces and their spouses and former spouses and to extend certain benefits—mainly including survivor and medical benefits—to spouses and former spouses of members of the uniformed services. The provisions of the Former Spouses' Protection Act affecting state court judgments and orders arising out of divorce and separation actions are codified at 10 U.S.C. §1408; the provisions affecting survivor benefits are codified at various places in Subchapter II of Chapter 73 of Title 10, United States Code, "Survivor Benefit Plan," 10 U.S.C. §§1447–1460b; the provisions affecting medical care to spouses and former spouses of members and former members of the armed forces are partially codified at various places in Chapter 55 of Title 10, United States Code, "Medical and Dental Care," 10 U.S.C. §§1071–1104. The reasons underlying enactment of the Uniformed Services Former Spouses' Protection Act were explained by the Senate Armed Services Committee in 1982:

Background and Discussion

> Currently, [a number of] States ... apply community property principles [in connection with the judicially ordered distribution of marital property incident to a divorce or legal separation or to the dissolution or annulment of a marriage]. The concept of the pool of property available for division on divorce or other dissolution of a marriage (i.e., marital property) in these States is based on French and Spanish Civil Law, rather than on the English common law from which other State marital property laws are derived. In community property States, all property earned by either spouse during the marriage is considered "community property" in which each spouse has a one-half interest. The general rule is that a pension earned by one party for work performed during the marriage becomes part of the marital property in which each spouse has an interest.
>
> [A number of other] States ... apply common law principles to the determination and distribution of marital property. An increasing number of these States are now determining that retirement and pension benefits can be deemed part of the marital property in divorce. However, in these jurisdictions, the concept of an equal interest created by law in marital property does not exist. These States apply a concept known as "equitable distribution" in dividing marital property. Under this approach, the court weighs the equities of each case and divides the property accordingly, not necessarily on a 50-50 basis, but however seems fair under all the circumstances.
>
> Courts in ... [some] of the ... community property States also have the discretion to distribute marital property on this basis.
>
> The ... remaining States ... are presently the only strict "title" States, in which title controls the distribution of marital assets. Upon divorce, pensions in these States remain the property of those who earn them.

In the vast majority of divorce cases, domestic relations courts do not become involved in the financial aspects of divorce. Usually, a privately negotiated property settlement is entered into by the parties and incorporated in the divorce decree. For this reason, there is little information available on the precise extent to which military retired pay has been considered and divided during the divorce process. What information exists, however, indicates that pensions are seldom divided between the parties to a divorce. Instead, the pensioner generally retains current or future annuity benefits and the non-working spouse receives an offsetting award of cash or other property.

However, there is a growing body of State laws and precedents in the area of dividing pensions and retired pay. As of June 26, 1981, case decisions in virtually all community property States, and a number of common law property States employing equitable distribution principles, specifically permitted military retired pay to be considered as an asset of the marriage and subject to division. [A number of] other States had specifically ruled that military retired pay could not be so considered.

The *McCarty v. McCarty* Decision

On June 26, 1981, the United States Supreme Court decided the case of *McCarty v. McCarty*, 453 U.S. 210 (1981), holding that absent a Federal statute permitting such action, a State court may not order a division of non-disability military retired pay as part of a distribution of community property incident to a divorce proceeding.

The Supreme Court examined the military retirement scheme and concluded that the application of State community property laws conflicted with that scheme. According to the Court, the Congress intended military retired pay to be the personal entitlement of the retiree. Thus, the Court reasoned that the application of State community property laws "interfere(s) directly with a legitimate exercise of the power of the Federal Government" reflected in the military retirement scheme. However, the Court left it to the Congress to change the policy reflected by that scheme. Writing for the majority, Justice Blackmun stated:

We recognize that the plight of an ex- spouse of a retired service member is often a serious one ... Congress may well decide, as it has in the Civil Service and Foreign Service contexts, that more protection should be afforded a former spouse of a retired service member. This decision, however, is for Congress alone. We very recently have reemphasized that in no area has the Court accorded Congress greater deference than in the conduct and control of military affairs. 453 U.S. at 235-236.

Prior Legislation Similar to S. 1814

Until 1975, the Federal Government had refrained from involvement in the circumstances surrounding the divorce of a present or former Government employee or military member. However, in 1975, Pub. L. No. 93-647 authorized the Federal Government to recognize a valid State court order garnishing or attaching the salary or retired pay of a present or former military member or Government employee when the individual failed to keep up with alimony or child support payments required by a court ordered divorce settlement. See 42 U.S.C. §659. The 95th Congress passed Pub. L. No. 95-30 which limited the amount of salary or retired pay that can be garnished or attached. A present or former military member or Government employee who is supporting a spouse or dependent can have up to 55 percent of disposable earnings garnished or attached; a person without a spouse or dependents can have up to 65 percent of disposable earnings attached. See 15 U.S.C. §1673(b); 5 CFR Part 581 (1982).

In 1978, the 96th Congress enacted a separate law, 5 U.S.C. §8354(j), which is applicable to the retired pay of Federal civil-service employees. This law requires the Office of Personnel Management to comply with the terms of a court decree, order, or property settlement in connection with a divorce, annulment, or legal separation of a Federal employee. No limitation was imposed on the percentage of retired pay that could be paid out pursuant to such decrees and orders. This law does not apply to military personnel.

Finally, the Foreign Service Act of 1980 (Pub. L. No. 96-405) entitles the former spouse of a Foreign Service employee to receive up to 50 percent of the employee's retired pay, provided that the former spouse was married for at least 10 years of the employee's Foreign Service career. See 22 U.S.C. §§4044 *et seq*. This right can be modified by spousal agreement or certain court orders. The rationale for this entitlement legislation was that the majority of Foreign Service duty is overseas and the "Foreign Service tradition of husband-wife 'teams' and the participation of wives in the vital representational activities is still very much alive."

Provisions of S. 1814

On November 4, 1981, Senator Roger Jepson introduced S. 1814, the Uniformed Services Former Spouses Protection Act. Under S. 1814 military retired pay can be treated either as the property solely of the member or as the property of the member and his spouse. No right or entitlement to military retired pay is created by S. 1814. The bill does not require any division of retired pay by a State court; nor does it prohibit such division.

Treatment of such retired pay—with certain limitations—generally would be dependent on the divorce and property laws applied by the courts of the jurisdiction in which a divorce or other related decree is issued.

S. 1814 imposes three distinct limits on the division or enforcement of court orders against military retired pay in divorce cases. First, the total amount of the disposable retired or retainer pay of a member which the Service Secretary could pay out to satisfy a court order for prospective obligations could not exceed 50 percent of such pay. Second, this bill would not create in the spouse or former spouse any right, title or interest which could be sold, assigned, transferred or disposed of by will or inheritance. Third, the courts could not direct that a service member retire at a particular time in order to effectuate any payment out of retired pay to a spouse or former spouse. Within these limitations, a former member's military retired pay would be subject to court orders issued incident to a divorce, dissolution, annulment or legal separation proceeding. The Service Secretaries would comply with such orders which direct the payment of a portion of that retired pay to a former spouse as alimony, as child support, or as the distribution of marital property.

S. 1814 extends limited health care coverage to certain unremarried former spouses of present or former service members. To qualify for the coverage, the former spouse must have been married to the member or former member for a period of at least 20 years on or before the date of the divorce during which period the member completed at least 20 years of creditable service. The health care is offered for a period of 180 days immediately following the date of the final decree of divorce, dissolution or annulment, provided that the former spouse remains unremarried. Under certain circumstances, health care will be extended by the Secretary concerned for the treatment of a medical condition which existed prior to the end of the 180-day period, but only if treatment for that condition has been provided by the uniformed services prior to the end of that period.

> Finally, S. 1814 provides future participants in the Survivor Benefit Plan (SBP) the flexibility to provide for their former spouses. The bill provides that where the service member has not remarried and does not have a dependent child for whom an annuity can be provided under SBP, the member could voluntarily provide an annuity to a former spouse. If the member chooses to provide such an annuity and then remarries, the member would be free to change the earlier designation so as to provide an annuity to the new wife or dependent child, unless the member had made a commitment as part of a voluntary written agreement to designate the former spouse. In that event, the member would have to obtain the appropriate court or other approval before changing the designation. It is the committee's intention that the service member retain the sole right to elect a former spouse as beneficiary of any SBP annuity.[1]

The Uniformed Services Former Spouses Protection Act introduced as S. 1814 was in fact not enacted, but the substance of S. 1814 was picked up and adopted as Title X of S. 2248, which was enacted as the Department of Defense Authorization Act, 1983, Pub. L. No. 97-252, Title X, §§1001–1006, 97 Stat. 718, 730–38 (1982).[2] Subsequent congressional enactments have amended and modified some aspects of the original act—basically to extend the categories of benefits available to former spouses under the Survivor Benefit Plan and to perfect and clarify various provisions of the original enactment. See, e.g., the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §§641–646, 100 Stat. 3816, 3885–3887 (1986);[3] National Defense Authorization Act, Fiscal Year 1989, Pub. L. No. 100-456, §652, 102 Stat. 1918, 1991 (1988);[4] National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §1404(a), 103 Stat. 1352, 1579–1586 (1989), enacting the Supplemental Survivor Benefit Plan;[5] National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, §555, 104 Stat. 1485, 1569–1570 (1990); National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §653(a)(2), 106 Stat. 2315, 2426–2428 (1992);[6] National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §555(a)(2), 107 Stat. 1547, 1666 (1993)[7]; National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2579 (1996); National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, 111 Stat. 1799 (1997); and National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 2048 (1998).

The Uniformed Services Former Spouse Protection Act remains a controversial and emotional topic for both members and former spouses. In 2001 the Department of Defense recommended several changes to the USFSPA. A copy of the DoD report is available at http://dod.mil/prhome/spouserev.html. As of 2009, Congress had not enacted any of the recommendations proposed by DoD.

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[1] S. Rep. No. 97-502 (Committee on Armed Services), at 2–5, accompanying S. 1814, 97th Cong., 2d sess. (1982).

[2] See H.R. Rep. No. 97-749 (Committee of Conference), at 165–68, accompanying S. 2248, 97th Cong., 2d sess. (1982).

[3] *Cf*. H.R. Rep. No. 99-1001 (Committee of Conference), at 483–84, accompanying S. 2638, 99th Cong., 2d sess. (1986).

[4] Making several technical amendments to include former spouses within the Survivor Benefit Plan.

[5] See especially 10 U.S.C. §1459 as adopted by the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §1404(a), 103 Stat. 1352, 1584–1585 (1989); *cf*. S. Rep. No. 101-81 (Committee on Armed Services), at 180–81, accompanying S. 1352, and H.R. Rep. No. 101-331 (Committee of Conference), at 660–61, accompanying H.R. 2461, 101st Cong., 1st sess. (1989).

[6] Adding provisions, codified at 10 U.S.C. §1408(h), extending protections of Uniformed Services Former Spouses' Protection Act to spouses and former spouses of members who have had their right to receive retired or retainer pay terminated as a result of abuse of a spouse or dependent child. See H.R. Rep. No 102-966 (Committee of Conference), at 716, accompanying H.R. 5006, 102d Cong.,, 2d sess. (1992).

[7] See S. Rep. No. 103-112 (Committee on Armed Services), at 155, accompanying S. 1298, and H.R. Rep. No. 103-357 (Committee of Conference), at 678, accompanying H.R. 2401, 103d Cong., 1st sess. (1993).

Appendix III
Highlights of Major Structural Studies of Military Compensation

Note: Resource constraints led to the decision not to update all of the health sections in this eighth edition of Military Compensation Background Papers. Chapter II.D.I contains relevant health-related information that has not been updated since 2008.

Since the end of World War II, a number of studies of military compensation have been conducted under the general sponsorship of the Department of Defense, the President, and the Congress. Some of these studies have been broad in scope, others more narrowly circumscribed. From 1945 to 1965, the more comprehensive studies tended to come at approximately four-year intervals—usually in response to perceived crises or specific needs. In 1965 a provision was added to permanent law, at the behest of the House Armed Services Committee, requiring the President to conduct a comprehensive review of military compensation every four years.[1] The following listing identifies the major structural studies of military compensation that have been conducted since World War II, starting with the so-called Hook Commission in 1948 and ending with the Tenth Quadrennial Review of Military Compensation in 2008. The listing indicates the significant accomplishments of each study.[2]

1. ***The Advisory Commission on Service Pay (The Hook Commission*—1948)**.

In 1948 Secretary of Defense James V. Forrestal chartered the Advisory Commission on Service Pay, also known as the Hook Commission after its chairman, Charles J. Hook, to undertake the first comprehensive review of military compensation since 1908. Upon completion of its review, the commission issued a report, titled *Career Compensation for the Uniformed Services: A Report and Recommendation for the Secretary of Defense by the Advisory Commission on Service Pay*, which formed the basis for various recommendations to Congress to restructure military compensation. These recommendations resulted in the enactment of the Career Compensation Act of 1949, ch. 681, Pub. L. No. 81-351, 63 Stat. 802 (1949), which, with relatively minor emendations, established the structure of the military compensation system that exists today—i.e., basic pay, allowances, and special and incentive pays for active-duty forces, and retired or retainer pay for retired forces. The rates of military compensation established under the act were set by a comparison of levels of responsibility between military and private sector organizations. In focusing on and questioning the underpinnings and justifications of the entire system of military compensation, the Hook Commission completed what has turned out to be the most fundamental and most important of all the studies of military compensation that have taken place since the end of World War II.

2. ***The Strauss Commission* (1952–1953)**.

Under pressures deriving from the Korean War, which had started on June 25, 1950, when North Korean troops invaded South Korea by crossing the 38th parallel at 11 separate points, the Strauss Commission was convened by Secretary of Defense Robert A. Lovett in 1952 to consider the continued need for special and incentive pays and to make recommendations concerning the form of such pays. After completing its study of special and incentive pays, the Strauss Commission prepared a comprehensive technical report[3] that, while never formally transmitted to Congress, had substantial influence on later

[1] See discussion relating to the adoption of Section 1008(b) of Title 37, United States Code, 37 U.S.C. §1008(b), under the heading relating to the First Quadrennial Review of Military Compensation (Hubbell Study Group), at paragraph 5 to this appendix, below.
[2] All of the studies referred to produced reports of one sort or another, and these reports may be consulted for specific details concerning the underpinnings of the findings and conclusions reached and the recommendations made, if any.
[3] *Differential Pays for the Armed Services of the United States*, Report of the Commission on Incentive-Hazardous Duty and Special Pays, March 1953.

legislation dealing with such pays—especially that adopted in the Career Incentive Act of 1955, ch. 20, Pub. L. No. 84-20, 69 Stat. 18 (1955).

3. ***The Cordiner Committee* (1956–1957)**.

The Cordiner Committee was convened in 1956 in response to a perceived problem in attracting and retaining qualified technical personnel in the armed services. The Cordiner Committee's work, which was undertaken shortly after the Soviet Union launched its first Sputnik satellite, led to the recommendation that resulted in the creation of four new pay grades—E-8 and E-9 in the enlisted grade structure and O-9 and O-10 in the officer grade structure—and to the introduction of proficiency pay for critical military skill occupations. [See Act of May 20, 1958, Pub. L. No. 85-422, §1(2), 72 Stat. 122, 124 (1958).] Taking its cue from the Cordiner Committee's recommendation, Congress added responsibility pay to the military compensation system as an officer analogue to enlisted proficiency pay.

4. ***The Gorham Report and the Randall Panel* (1962)**.

A study was convened by Secretary of Defense Robert S. McNamara in 1962 to conduct a comprehensive review of the entire system of military compensation. Although no final report was ever issued, the study findings were set forth in a document generally referred to as the "Gorham Report." This report was reviewed by the Randall Panel, which approved the majority of its recommendations. The action of the Randall Panel, in turn, led to congressional approval of one of the largest military pay raises of modern times—exceeded only by the pay raise of 1982. Another effect of the Gorham Report was the adoption of the consumer-price-index (CPI) method of adjusting military retired pay benefits, thereby removing the linkage of military retired pay to active-duty basic pay. The Gorham Report also originated the earliest counterpart of the present-day construct known as "regular military compensation" to serve as a rough yardstick for comparing military and civilian compensation levels.

5. ***The First Quadrennial Review of Military Compensation (The Hubbell Report*—1967)**.

The First Quadrennial Review of Military Compensation was convened in 1965 by Secretary of Defense Robert S. McNamara in response to the newly enacted requirements of Section 1008(b) of Title 37, United States Code. Under 37 U.S.C. §1008(b), the President was—and continues to be—required to conduct "a complete review of the principles and concepts of the compensation systems for members of the uniformed services" at least once every four years and, after completing such a review, to "submit a detailed report to Congress summarizing the results of such review together with any recommendations ... proposing changes" to the compensation systems. The first such review was conducted by a study group that soon came to be referred to as the First Quadrennial Review of Military Compensation.[4]

The major recommendation of the First QRMC was to move from the then-existing system of pay and allowances for military personnel to a salary system. Although this recommendation generated a good deal of interest—both in Congress and elsewhere—it did not in fact result in any changes to the military compensation system. The consensus was that movement from the pay and allowances system of military compensation to a salary system would simply be too expensive and that, in light of then-existing draft, a salary system was not needed to attract requisite numbers of military personnel. One of the most important results of the First QRMC was the implementation of annual pay raises for uniformed services personnel.

6. ***The Gates Commission* (1970)**.

The Gates Commission recommended the all-volunteer-force concept—thus abandoning reliance on the draft as the primary source of military personnel in peacetime—together with certain necessarily associated changes in the pay system. The most important of the recommendations concerning the pay system was a proposal for a substantial pay increase for first-term military personnel, and this

[4] Subsequent reviews have been referred to, successively, as the Second Quadrennial Review of Military Compensation (QRMC), the Third QRMC, the Fourth QRMC, the Fifth QRMC, the Sixth QRMC, etc. The Tenth QRMC was convened in August 2005, and its report was completed in February 2008.

recommendation was in fact adopted in a modified form in connection with the movement to an all-volunteer force.

7. ***The Second Quadrennial Review of Military Compensation* (1971)**.

The Second QRMC was concerned with proposals to restructure four selected special pays in line with the all-volunteer-force concept. Recommendations made by the Second QRMC resulted in legislation affecting flight pay, reenlistment bonuses, and medical special pays. The preexisting flight-pay program for rated aviators was replaced by aviation career incentive pay; the preexisting variable reenlistment bonus was replaced by the selective reenlistment bonus; and variable incentive pay was authorized for medical officers of the armed forces. Although the Second QRMC also considered hostile fire pay, especially in light of the imperatives of the Vietnam War, no change to the program was recommended. The Second QRMC was unique in being the only one of the QRMCs to have virtually all of its recommendations enacted into law.

8. ***Department of Defense Retirement Study Group* (1972)**.

The Department of Defense Retirement Study Group was constituted to review the findings and recommendations of the Interagency Committee on Uniformed Services Retirement and Survivor Benefits, which had been convened in 1971 to conduct a comprehensive review of the military retirement system. The report of the interagency committee recommended far-reaching reform of the military nondisability retirement system to reduce perceived inequities of the system, to improve its efficiency and effectiveness as a management tool, and to decrease its costs. The review of the interagency committee's report by the Department of Defense Retirement Study Group led to the Department of Defense's development of a legislative proposal that was forwarded to Congress in 1974 and again in 1975 as the Retirement Modernization Act (RMA). Despite having been submitted to Congress twice, the Retirement Modernization Act never was enacted.

9. ***The Third Quadrennial Review of Military Compensation* (1975–1976)**.

The Third Quadrennial Review of Military Compensation conducted the first across-the-board, comprehensive review of the entire system of military compensation since the Hook Commission in 1948. Although the Third QRMC never issued a formal final report, its staff studies, which covered the entire spectrum of military compensation, were collected in 10 volumes.[5] The major conclusions of the Third QRMC were that a modernized system of pay and allowances should be established as the basis for uniformed services pay, that comparability with the Civil Service should be the standard for determining pay levels for the uniformed services, that pay should be set and adjusted on a "total compensation" basis, and that the military retirement system should be revamped in accordance with the twice-submitted Retirement Modernization Act. One of the major accomplishments of the Third QRMC was the collection and publication of the first edition of *Military Compensation Background Papers—Compensation Elements and Related Manpower Cost Items: Their Purpose and Legislative Background* (Washington, DC: Department of Defense, 1976).

10. ***The Defense Manpower Commission* (1976)**.

The Defense Manpower Commission was convened in response to a congressional directive to review a broad range of personnel and compensation issues. The commission recommended a major overhaul of the military compensation system, including the adoption of a salary system together with a radically revised retirement system. The commission's recommendations did not result in any legislative enactments.

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[5] A draft final report was sent to appropriate committees of the Congress. In addition, because of a change in administrations, the draft final report and staff studies of the Third QRMC were turned over to the President's Commission on Military Compensation for further review. (For a discussion of the President's Commission on Military Compensation and its accomplishments, see paragraph 11 of this appendix.)

11. ***The President's Commission on Military Compensation (PCMC—1978–1979)***.

The President's Commission on Military Compensation, sometimes referred to as the PCMC or the Zwick Commission (after its chairman, Charles Zwick), was convened by the newly ensconced Carter administration to review all of the recently completed studies affecting military compensation—including the studies of the three QRMCs, the Interagency Committee, the Defense Manpower Commission, and various special studies of selected military compensation issues conducted by the General Accounting Office. Parting ways with the Defense Manpower Commission, the PCMC recommended against a salary system as well as against a formal comparability system for setting military pay levels. In a positive vein, the PCMC recommended more reliance on special and incentive pays to solve manpower shortage problems as well as a new, non-contributory, three-part, mandatory retirement plan. It also recommended a form of variable housing allowance and longevity pay based on time-in-grade rather than time-in-service.

12. ***The Fourth Quadrennial Review of Military Compensation* (1979)**.

The Fourth Quadrennial Review of Military Compensation reviewed the findings, conclusions, and recommendations of the President's Commission on Military Compensation. Focusing particularly on the PCMC's retirement recommendations, the Fourth QRMC refined the recommendations in question and produced a legislative proposal that was submitted to Congress, in fulfillment of the report requirements of 37 U.S.C. §1008(b), as the proposed Uniformed Services Retirement Benefits Act (USRBA) of 1979. One of the important features of the USRBA proposal was a modified vesting provision coupled with an early-withdrawal option. Opposition by the Department of the Treasury to income averaging treatment for early withdrawals taken by service members effectively resulted in blocking favorable consideration of the proposal, and Congress in fact took no action on the submission.

13. ***The Fifth Quadrennial Review of Military Compensation* (1983–1984)**.

Pursuant to presidential directive, the Fifth Quadrennial Review of Military Compensation was convened to review the military retirement system and its associated benefits as well as special and incentive pays. The report and recommendations of the Fifth QRMC led to congressional amendment of special and incentive pays, including the elimination of officer–enlisted pay differentials for seven hazardous duty incentive pays. The Fifth QRMC pioneered new methods for evaluating the impact of military retirement benefits as incentives affecting active-duty service members. It also prepared a statement on the principles and concepts of military compensation, which, in a modified form, is incorporated as Chapter 1 of this edition of *Military Compensation Background Papers: Compensation Elements and Related Manpower Cost Items—Their Purposes and Legislative Backgrounds*.

14. ***The Sixth Quadrennial Review of Military Compensation* (1986–1988)**.

The Sixth Quadrennial Review of Military Compensation was tasked by the President to perform a comprehensive evaluation of the benefits and costs of the reserve compensation system. As the first comprehensive review of reserve compensation, the Sixth QRMC provided both a systematic evaluation of the elements of compensation for members of the reserve components and an analysis of the way reserve compensation affects the ability of the National Guard and the reserve components of the armed forces to meet their manpower requirements in support of readiness. The report of the Sixth QRMC contained separate studies of the compensation of full-time support personnel, compensation in support of reserve medical manpower requirements, and of National Guard and reserve retirement. The studies of full-time support and reserve medical manpower were the first comprehensive studies completed in these areas. The retirement study was the first to employ analytical models to assess the effects of the current system and evaluate the costs and benefits of alternatives. Many recommendations of the Sixth QRMC were adopted by Congress, including a muster allowance, benefits for "gray area" retirees, statutory authorization of the Delayed Enlistment Program, revised medical special pay, bonus test programs, an improved system of incapacitation pay, and amendments to the Soldiers' and Sailors' Civil Relief Act. Legislation to revise the

reserve retirement system as recommended by the Sixth QRMC was not submitted because of the high initial costs associated with its implementation.

15. ***The Seventh Quadrennial Review of Military Compensation* (1990–1991)**.

The Seventh Quadrennial Review of Military Compensation was chartered to conduct a fundamental review of the overall military compensation system and assess its ability to continue to attract and retain the numbers and kinds of personnel needed in the post–Cold War environment and in particular to evaluate the major components of the military compensation system—specifically including basic pay, the various allowances, special pays, and bonuses—and the mechanisms for their periodic adjustment. The Seventh QRMC recommended continuation of the present system of pay and allowances but with realistic pricing of existing housing and subsistence allowances and internal restructuring of basic pay to achieve the identified objectives. As for periodic adjustments in the compensation system, the Seventh QRMC recommended annual adjustments in basic pay based on the Employment Cost Index (ECI), annual adjustments in the allowances based on costs actually experienced by service members, and annual reviews of the levels of special and incentive pays in light of the objectives they were intended to serve. In addition, the Seventh QRMC recommended development of a cost-of-living allowance applicable in the continental United States to help offset differentially higher non-housing costs in different parts of the country, which has since been enacted as the "CONUS COLA" (cost-of-living allowance for the continental United States) program.[6]

16. ***The Eighth Quadrennial Review of Military Compensation* (1995–1997)**.

The Eighth Quadrennial Review of Military Compensation was tasked by the President of the United States to focus its analysis on the military compensation scheme's current effectiveness in attracting, maintaining, and motivating its work force. Accordingly, the Eighth QRMC analyzed the role of human resource management in attaining overall performance and efficiency goals. The recommendations of the review involve the design and implementation of a centralized core of policies and practices that can be flexibly tailored to the needs of specific organizations. The goal of this approach was to establish a future-oriented human resource management plan that can be responsive to issues posed by a changing workforce and to the need for improved effectiveness in leadership and organization within the overall framework of the Department of Defense. The establishment of such a plan was to include a Defense Human Resources Board that would contribute expert advice and perspective as new policies and practices are integrated. This board finally was established in 2002 and first met in July 2003, assisted by a civilian Strategic Advisory Group tasked with analyzing future change.

17. ***The Ninth Quadrennial Review of Military Compensation* (1999–2001)**.

The Ninth Quadrennial Review of Military Compensation was asked to perform a strategic review of regular military compensation (RMC) in addition to benefits provided by the Department of Veteran Affairs. Specifically, the Ninth QRMC was tasked to evaluate the effectiveness in retention and recruitment of high-quality personnel through special and incentive pays and bonuses in addition to an analysis of the adequacy of basic pay in maintaining the financial well-being of service members and their families. The primary recommendations of the report indicated that although new advertising campaigns and recruiting messages had been successful in bringing an increased number of youths into the military, the continued increase in recruitment and retention of high-quality candidates would best be encouraged by focusing on the increase of balance and flexibility of the compensation system. The analysis found that regular military compensation was still below the standards set by the private sector, increasing the tendency for potential recruits to go to the private sector for better pay. The report recommended that RMC be adjusted to reflect levels close to private-sector salaries, and that the potential for pay differentials be increased to maintain highly educated and skilled members. The review concluded that expanding incentive pays, the basic allotment for housing, and increasing flexibility for assignments also may assist in recruit attraction and

[6] See Chapter V.C.4. hereof, "Cost of Living Allowance for the Continental United States (CONUS COLA)," above.

retention. Finally, the Ninth QRMC suggested expansion of programs in education and employment for spouses that assist entire families of members, since the decision to stay in the military often is a family decision.

18. ***The Defense Science Board (2000)***.

The Defense Science Board Task Force on Human Resources Strategy was tasked by the Secretary of Defense to address "How to attract and retain personnel with the motivation and skills to serve and lead in civilian and military capacities in the Department of Defense." The task force concluded that the all-volunteer force is still the appropriate vehicle for procuring and sustaining defense military manpower. Further, military personnel should limit their activity to inherently military functions, with civilians performing other government tasks. The task force identified three issues as having an adverse impact on force quality – (1) the Department of Defense does not have the authority and tools necessary to integrate the management of its human resources and to shape the military force. Specifically, the "one-size-fits-all" approach in compensation and personnel policies is no longer suited to the current needs of the force; (2) the department lacks a strategic plan for future human-resource requirements for a fully integrated DoD force; and, (3) the American public is less involved and less inclined to serve in the Department of Defense.

19. ***Defense Advisory Committee on Military Compensation (2006)***.

The Defense Advisory Committee on Military Compensation was chartered to review the military compensation system and to recommend to the Secretary of Defense approaches for updating military pay and benefits in light of emerging challenges to recruitment and retention. The committee issued several findings with respect to the current compensation architecture in areas such as basic pay, retirement, health benefits, and special and incentive pays. It found that the current basic pay system tends to reward longevity over performance and that the retirement system is inflexible and poorly suited to meet current force-management challenges. In order to shift toward a pay-for-performance system, the committee recommended revising the basic pay chart so that compensation is based on time in grade rather than years of service. It also urged the elimination of the differential in the basic allowance for housing between service members with dependents and those without. In the area of retirement benefits, the committee recommended vesting service members at 10 years of service rather than the current 20 years. The panel also endorsed a portable retirement system paying graduated retirement plans ranging from 25 percent of base pay at 10 years to 100 percent at 40 years of service; establishing a thrift savings plan with government contributions of 5 to 10 percent of base pay; and delaying payment of the retirement annuity until age 60. As a transitional measure, the committee recommended a system of "buy-outs" for service members with more than 10 years of service who are not yet vested. With regard to special and incentive pays, the committee endorsed a consolidation of the more than 60 categories of special and incentive pay into a smaller number of pay authorities. In order to contain the growth of health-care costs, the committee recommended greater cost sharing among TRICARE program participants while continuing the current policy of providing full medical care after 20 years of service. Finally, the committee recommended a reevaluation of the compensation scheme for active National Guard and Reserve members in light of the current use of these forces as an operational (rather than strategic) reserve.

20. ***The Tenth Quadrennial Review of Military Compensation (2008)***.

The Tenth Quadrennial Review of Military Compensation (Tenth QRMC) was tasked with reviewing the adequacy of military compensation, exploring the potential for consolidation of special pays and bonuses into fewer, broader, and more flexible authorities, examining the need for broader and more flexible recruitment and retention tools, reviewing the funding of the military health-care system, and evaluating the appropriateness of the military retirement system in light of changing expectations of members relating to retirement. The Tenth QRMC was also charged with examining programs that affect the quality of life of members and their families. The Tenth QRMC used the Defense Advisory Committee on Military Compensation (DACMC) report as the point of departure for its own assessment of the military compensation system. Addressing the issue of adequacy of pay, the Tenth QRMC recommended adopting

a new metric to determine a more realistic value of military compensation compared to the civilian sector. The more comprehensive metric, military annual compensation (MAC), would include regular military compensation (RMC) plus state and federal tax advantages, the value of avoided out-of-pocket health costs, and a measure of the differences in the value of military and civilian retirement. Based on the new metric, the Tenth QRMC found that member compensation is competitive—members' MAC meets or exceeds the 80th percentile when compared to their civilian peers of like age and education. The Tenth QRMC recommended setting the 80th percentile as the new standard for pay. The report also recommended a simplification of the special and incentive pay structure by consolidating the more than 60 categories of special and incentive pay within the U.S. Code into eight pay categories with fewer statutory restrictions. The review endorsed the uniformed services' use of constructive credit as a mechanism for improving the linkage between pay and performance and as a means of facilitating lateral entrants or reentrants into the services. It also recommended reducing the basic allowance for housing rate differential between those with and without dependents in order to enhance housing choices for service members without dependents. In the area of deferred and non-cash compensation, the Tenth QRMC proposed reforms of the military retirement system, such as introducing defined benefit and contribution plans, reducing the number of years of service for vesting from 20 to 10, and introducing gate pays payable at specific year-of-service milestones. With regard to health care, the Tenth QRMC urged that steps be taken to mitigate the upward trend in military health-care costs by promoting more cost-effective choices among TRICARE program participants. Finally, observing that service members tend to undervalue quality-of-life programs, the Tenth QRMC recommended that the Department of Defense develop a more comprehensive system to educate personnel about those programs and to assess their ongoing role and effectiveness as recruitment and compensation tools.

21. ***The Eleventh Quadrennial Review of Military Compensation (2012)***.

The Eleventh Quadrennial Review of Military Compensation (Eleventh QRMC) was tasked with reviewing compensation for members serving in combat; Reserve and National Guard compensation in light of the increased operational role; compensation for wounded warriors, caregivers, and survivors; and pay incentives for critical career fields, such as mental healthcare professionals, linguists/translators, remotely piloted vehicle operators, and special operations personnel. The Eleventh QRMC made several recommendations, none of which were adopted by the Department. It recommended providing authority for a career incentive pay structure, similar to the career pays for aviators and health professionals, which could be used for other communities or career fields. It recommended differentiating the amount paid for hostile fire and imminent danger pay, and providing more than one level of imminent danger pay. It also recommended replacing the current combat zone tax exclusion, which it found provided greater benefits to more highly paid members, with a tax credit, which would result in a more even distribution of the benefit across pay grades. In the area of compensation for wounded warriors, caregivers, and survivors, it recommended further study and monitoring and work to ensure a more seamless transition from the Department of Defense to the Department of Veterans Affairs by making eligibility criteria, disbursement policies, and the tax treatment of caregiver compensation consistent between the two programs. In examining Reserve and National Guard compensation, it recommended reducing the number of duty statuses from the current 30 statuses to 6, and changing the compensation structure to provide 1 day of regular military compensation per day of duty in lieu of paying 1 day of basic pay per drill period, while authorizing annual completion bonuses and accelerating the date at which retired pay for Reserve and National Guard members starts.

22. ***The Military Compensation and Retirement Modernization Commission (2015).***

The Military Compensation and Retirement Modernization Commission was established by the National Defense Authorization Act (NDAA) for FY 2013 to provide the President of the United States and the Congress specific recommendations to modernize pay and benefits of the Uniformed Services. The Commission's legislative mandate, coming after 42 years with an All-Volunteer Force and 13 years of war, was to provide recommendations that: ensure the long-term viability of the All-Volunteer Force

by sustaining the required human resources of that force during all levels of conflict and economic conditions; enable the quality of life for members of the Armed Forces and the other Uniformed Services and their families in a manner that fosters successful recruitment, retention, and careers for members of the Armed Forces and the other Uniformed Services; and modernize and achieve fiscal sustainability for the compensation and retirement systems for the Armed Forces and the other Uniformed Services for the 21st century.

Of the 15 recommendations, the most notable one made by the Commission was to reform the military retirement system. This recommendation was largely consistent with input received from the Department of Defense in a white paper that suggested reducing the retired pay multiplier, while providing members with automatic and matching Thrift Savings Plan contributions. In addition, the Commission felt it was important to offer members an option to obtain a lump-sum portion of their retired pay benefit at the time of retirement. This recommendation, slightly modified, was enacted as part of the National Defense Authorization Act for Fiscal Year 2016, and implemented on January 1, 2018 as the Blended Retirement System. The Commission also recommended providing an additional option for the Survivor Benefit Plan, which would require the retiree to fully fund a survivor option that would not be subject to an offset by Dependency and Indemnity Compensation. This was not enacted. The Commission recommended and Congress adopted a requirement for the Department to provide military members with greater education on financial literacy matters. Finally, the Commission recommended, as have many other studies, that the Department reform and simplify the numerous Reserve Component duty statuses.

23. ***Twelfth Quadrennial Review of Military Compensation (2015).***

In a memorandum to the Secretary of Defense on January 9, 2015, the President determined that the Military Compensation and Retirement Modernization Commission satisfied the requirements of section 1008(b) of title 37, United States Code, and that a separate Twelfth Quadrennial Review of Military Compensation was not required.

Appendix IV
BAH Entitlements of Members of the Uniformed Services Married to Other Members of the Uniformed Services

Under Section 403 of Title 37, United States Code, the normal rule is that members of the uniformed services are entitled to basic allowance for housing, or BAH, unless they are assigned to quarters provided by the federal government that are "appropriate to [their] grade, rank or rating and adequate for [themselves] and [their] dependents, if with dependents," in which case they are specifically declared to be "not entitled to a basic allowance for housing." [See 37 U.S.C. §403 (e)(1).][1] As indicated in Chapter II.B.2., "Housing Allowances," above, members who are entitled to BAH under 37 U.S.C. §403 and who have dependents are entitled to a higher rate of BAH than members without dependents. Section 421 of Title 37, however, creates an exception to eligibility for the "with dependents" BAH rate in the case of a member of the uniformed services whose sole dependent also is a member of the uniformed services:

> A member of a uniformed service may not be paid an increased allowance under [Chapter 7 of Title 37, which contains the BAH provisions here in issue], on account of a dependent, for any period during which that dependent is entitled to basic pay under section 204 of [Title 37].[2]

As interpreted, the quoted provision requires service members married to other service members to be treated as single for the purpose of determining the rate of BAH to which they are entitled unless they have one or more additional dependents who are not entitled to basic pay.

Section 403(f) of Title 37 deals with the entitlement to BAH of certain members of the uniformed services without dependents, or who are considered under 37 U.S.C. §421 as being without dependents for the purpose of determining the BAH to which they are entitled, as follows:

> (1) A member of a uniformed service without dependents who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for housing while on that initial field duty unless his commanding officer certifies that the member was necessarily required to procure quarters at his expense.
>
> (2) A member of a uniformed service without dependents who is in a pay grade below E-6 is not entitled to a basic allowance for quarters while on sea duty.[3]

Prior to 1997, the combined effect of these various provisions prohibited the payment of a housing allowance to a member of a uniformed service below pay grade E-6 who was married to another member of a uniformed service, who was without other dependents, and who was assigned to sea duty.[4] Thus, when both members of a married service couple below pay grade E-6 were assigned to sea duty, they were statutorily denied a basic allowance for quarters and had to either choose to live on board their respective

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[1] The major exception to this general rule is that a member in pay grade E-7 or above who is without dependents but who is assigned to quarters provided by the federal government "may elect not to occupy those quarters and instead to receive the basic allowance for quarters prescribed for his pay grade." See, e.g., 37 U.S.C. §403 (e)(2).

[2] This provision, which was formerly codified as Section 420 of Title 37, United States Code, was recodified as Section 421 of Title 37 by the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, §611(a)(1)(A), 101 Stat. 1019, 1093 (1987).

[3] Before enactment of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186 (1996), the rule was that a member of a uniformed service without dependents who was in a pay grade below E-7 was not entitled to a basic allowance for quarters while on sea duty. That legislation, at 110 Stat. 358, changed the rule so that members in pay grade E-6 and above without dependents became entitled to basic allowance for housing even while on sea duty.

[4] For the purpose of determining the entitlement of affected persons to BAH, a member of a uniformed service is considered as being assigned to sea duty if assigned to a self-propelled vessel that is in an active status, in commission, or in service, and that is equipped with berthing and messing facilities.

vessels or suffer financial losses measured by the costs of establishing a household off the vessels to which they were assigned. The National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2422 (1996), which generally revised regulations on housing allowances, provided that such a couple is jointly entitled to one basic allowance for housing for the duration of such simultaneous sea duty.

The National Defense Authorization Act for Fiscal Year 2004 amends 37 U.S.C. 403(f)(2)(C) to provide that married couples who are simultaneously assigned to sea duty are each entitled to a basic allowance for housing during the period of such simultaneous sea duty. The amount of the allowance payable is to be based on the "without dependents" rate for the pay grade of the service member.[5] The Ike Skelton National Defense Authorization Act for Fiscal Year 2011 required the Secretary of Defense to submit a report by July 2011 reviewing eligibility policies and compensation levels of basic allowance for housing for single and married personnel assigned to sea duty. The report was to include recommendations for modifications to Title 37 of the Code.[6] The National Defense Authorization Act for Fiscal Year 2013 amends Title 37 of the Code to provide that a member of the uniformed service in a pay grade below E-6 who is assigned to sea duty and is married to another member of the uniformed service is entitled to a basic allowance for housing.[7]

[5] National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, Title VI, Subtitle A, Sec. 605, 117 Stat. 1392, 1500 (2003).
[6] Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, Title VI, Subtitle F, Sec. 651, 124 Stat. 4137, 4242 (2011).
[7] National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, Title VI, Subtitle A, Sec. 603(a), 126 Stat. 1632, 1773 (2013).

Appendix V
Federal Taxation of Members of the Armed Forces

No other category of federal taxpayers has more special tax rules than members of the armed forces. These special rules have been enacted over many decades in response to changing circumstances related to service as a member of the armed forces. This appendix will identify those provisions of Title 26, United States Code, also identified as the Internal Revenue Code of 1986, regarding federal taxation of members of the armed forces in effect as of January 1, 2009. To provide structure, the provisions will be addressed by their function, i.e., exclusions, exemptions, postponements, etc., rather than numerical order on the basis of the section number within Title 26, United States Code. To eliminate ambiguity regarding which individuals are entitled to these special tax benefits, Section 7701(a)(15) of the Internal Revenue Code, IRC §7701(a)(15), 26 U.S.C. §7701(a)(15), defines the terms "military or naval forces of the United States" and "Armed Forces of the United States" to include all regular and reserve components of the uniformed services that are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force.

Income Taxes

Subtitle A of Title 26, United States Code

The vast majority of provisions that establish special rules for members of the armed forces are contained in Subtitle A of the Internal Revenue Code of 1986—the federal income tax.

Exclusions from Gross Income

In general, income tax is computed by applying a particular tax rate or set of tax rates to a measure of income determined by law. The federal income tax is computed by applying the tax rate prescribed by law to a measure of income identified as taxable income. Taxable income is defined as adjusted gross income reduced by various deductions for certain expenses and exemption amounts based on family size. Adjusted gross income is defined as gross income, as adjusted by increases and decreases for various items. Gross income is defined as income from all sources regardless of form unless excluded by law. An exclusion from gross income removes items from consideration in determining gross income—the initial measure of income. In many cases, amounts excluded from gross income are never reported for tax purposes. Since the federal income tax rate increases with increases in taxable income, the economic value of an exclusion from gross income is greater for taxpayers who receive greater amounts of income subject to tax and subject to higher rates of tax. The following exclusions from gross income are available to members of the armed forces.

Military Disability (IRC §104)

Subsection (a)(4) of Section 104 of the Internal Revenue Code, IRC §104(a)(4), 26 U.S.C. §104(a)(4), excludes from gross income "amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the Armed Forces of any country or in the Coast and Geodetic Survey [now the National Oceanic and Atmospheric Administration] or the Public Health Service." This provision provides the statutory basis to exclude disability retired pay and disability separation pay from gross income subject to federal income tax. Section 104 was amended in 1975 to limit the exclusion to compensation for "combat-related injuries." Combat-related injuries are injuries or sickness incurred as a direct result of armed conflict, while engaged in extra hazardous service, or under conditions simulating war, or caused by an instrumentality of war. The limitation enacted in 1975 pertains only to individuals who became members of the armed forces after September 25, 1975.

Compensation for Service in a Combat Zone (IRC §112)

Section 112 of the Internal Revenue Code, IRC §112, 26 U.S.C. §112, excludes from gross income compensation received for active service as an enlisted member of the armed forces of the United States for any month during any part of which such member served in a combat zone or was hospitalized as a results of wounds, disease, or injury incurred while serving in a combat zone. In 1996 the amount of the monthly exclusion for commissioned officers was increased from $500 per month to the "the maximum enlisted amount." For 2009, the maximum exclusion for a commissioned officer is $7,368.30, consisting of $7,143.30 per month in pay, plus $225 per month of hostile fire/imminent danger pay.

A combat zone is an area designated by the President of the United States by executive order as an area in which armed forces of the United States are or have engaged in combat. Service is performed in a combat zone only if performed on or after the date designated by the President by executive order as the date of commencing of combatant activities and before the date designated by the President by executive order as the date of termination of combatant activities in the combat zone. Compensation excludable under Section 112 does not include pensions or retirement pay.

By U.S. Treasury regulation (Treas. Reg. §1.112), members entitled to hostile fire/imminent danger pay under Section 310 of Title 37, United States Code, who are serving in support of members of the armed forces in a combat zone are treated as if they were serving in a combat zone. In addition, members of the armed forces who are present in a combat zone other than as a result of presence pursuant to orders are not considered to be performing active service in a combat zone and, as a result, are not entitled to the benefits of Section 112 or other provisions of the Internal Revenue Code requiring active service in a combat zone.

The exclusion from gross income for members of the armed forces serving in a combat zone was first authorized for the Korean War. That authorization ended January 31, 1955. Since then there have been four combat zones. Authorization for Vietnam ended June 30, 1996. A third zone includes certain areas in the Persian Gulf region (i.e., Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, the United Arab Emirates, and certain surrounding waters), which were designated in 1991 and maintained their status in 2009. Operation Iraqi Freedom, which began in 2003, was included under the ongoing provision for this region. On March 24, 1999, Executive Order 13119 designated Kosovo, including Albania, the Adriatic Sea region, the Ionian Sea region north of the 39th parallel, and Serbia and Montenegro, as a combat zone. Afghanistan was designated as a combat zone September 9, 2001.

In addition, special legislation has been enacted to provide combat-zone–like tax treatment for crew members of the USS *Pueblo* held by the government of North Korea (Act of April 24, 1970, Pub. L. No. 91-235, 84 Stat. 200 (1970)) and for members of the uniformed services, Civil Service, citizens, and resident aliens held hostage in the United States embassy in Teheran, Iran (Hostage Relief Act of 1980, Pub. L. No. 96-449, 94 Stat. 1967 (1980)). The Act of March 20, 1996, Pub. L. No. 104-117, 110 Stat. 827 (1996), and the Act of April 19, 1999, Pub. L. No. 106-21, 113 Stat. 34 (1998), also authorized combat-zone–like tax treatment for members of the armed forces serving in a "qualified hazardous duty area," defined to include Bosnia and Herzegovina, Croatia, and Macedonia, Serbia and Montenegro, and Albania, during the period in which a member of the armed forces is entitled to special pay for duty subject to hostile fire or imminent danger under 37 U.S.C. §310 for service in those areas.

Additional measures have been enacted to provide benefits for members of the armed forces and civilian personnel who were determined to be missing under 37 U.S.C. §551(2) or 5 U.S.C. §5561 during the Vietnam conflict as a result of such conflict. These benefits included exclusion from gross income for compensation received for active service as a member of the armed forces or as a civilian employee for any month during any part of which such member or employee was in a missing status. (Because the entire compensation of an enlisted member serving in a combat zone is excluded from gross income, this additional exclusion for members and civilian employees in a missing status had the effect of making the tax treatment of commissioned officers and civilian employees in that status equal to the tax treatment of enlisted members of the armed forces in a combat zone.

Certain Reductions in Uniformed Services Retirement Pay (IRC §§122 and 72(n))

Members and former members of the uniformed services entitled to retired pay are eligible to enroll in the Survivor Benefit Plan (SBP) under Chapter 73 of Title 10, United States Code. Under the SBP, the retired pay of participating retirees is reduced to provide an annuity to a surviving spouse or other eligible beneficiary. Under Section 122 of the Internal Revenue Code, IRC §122, 26 U.S.C. §122, gross income of a member or former member of the uniformed services does not include the amount of any reduction in military retired pay resulting from participation in the SBP. In addition, under Section 72(n) of the Internal Revenue Code, IRC §72(n), 26 U.S.C. §72(n), annuities received under the Retired Servicemen's Family Protection Plan (RSFPP) or SBP after December 31, 1965, were excluded from gross income until the amount excluded equals reductions in military retired pay that were subjected to federal income tax and, as a result, considered for the annuity provided by RSFPP or SBP. Section 122 and subsection (n) of Section 72 were enacted to treat SBP for members of the uniformed services in a manner comparable to joint and survivor annuities under qualified pension plans available to civilian employees.

Military Benefits (IRC §134)

Although enacted in 1986, Section 134 of the Internal Revenue Code, IRC §134, 26 U.S.C. §134, does not establish any new exclusion for military benefits. It was enacted to preserve the tax-exempt treatment of military benefits that were traditionally regarded as excluded from gross income. The provision became necessary because the Tax Reform Act of 1984 included provisions clarifying the taxation of fringe benefits. The exclusion for "fringe benefits" under Section 132 of the Internal Revenue Code was not applicable to exclude many benefits provided to members of the uniformed services, yet the legislative history regarding the tax treatment of fringe benefits indicated no intention to alter the non-taxability of benefits provided to members of the armed forces. However, the absence of an explicit statutory basis to exclude military benefits from gross income raised questions regarding the continuing tax-free treatment of in-kind benefits provided to members of the armed forces. Section 134 was enacted to eliminate ambiguity and to provide a statutory basis for the exclusion of many military benefits that were and would continue to be excluded from gross income. These traditional exclusions for military benefits were based on regulation, administrative ruling, or practice.

Benefits excluded under Section 134 include several important military cash allowances payable under provisions of Title 37, United States Code, that were excluded on the basis of a Treasury regulation (Treas. Reg. §1.62-2(b)) adopted after a 1925 decision of the United States Court of Claims, *Jones v. United States*, 60 Ct.Cl. 552 (1925). These allowances include the basic allowance for subsistence (BAS), payable under 37 U.S.C. §402, and the basic allowance for housing (BAH), payable under 37 U.S.C. §403. Other allowances payable in cash were excluded on the basis of a ruling of the Internal Revenue Service. These benefits include dislocation allowance (DLA), payable under 37 U.S.C. §407; departure (evacuation) allowances, payable under 37 U.S.C. §405a; family separation allowances (FSA), payable under 37 U.S.C. §427; and various allowances payable to members stationed overseas, payable under 37 U.S.C. §405, i.e., overseas housing allowance (OHA), cost of living allowance (COLA), and temporary lodging allowance (TLA).[1]

In addition to benefits payable in cash, Section 134 also excludes "any in-kind benefit (other than personal use of a vehicle) which is received by any member or former member of the uniformed services or any dependent of such member by reason of such member's status or service as a member which was excludable from gross income under any provision of law, regulation, or administrative practice which was in effect on September 9, 1986." This includes various in-kind benefits such as space-available travel on military aircraft provided under regulations of the Department of Defense, legal assistance provided to members of the armed forces under the authority of Title 10, United States Code, shopping privileges at military commissaries, as authorized by Sections 2484 and 2685 of Title 10, United States Code, 10 U.S.C.

[1] See footnote 16 to Chapter II.B.4. hereof, "Federal Tax Advantage," for a statement of congressional purpose underlying adoption of Section 134 of the Internal Revenue Code. 551–558

§§2484 and 2685, and shopping at military exchanges, as authorized by congressional approved regulations of the Department of Defense. The Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, 117 Stat. 1335 (2003), clarified that section 134 applies to dependent care assistance programs provided to members of the uniformed services.

Veterans' Benefits (IRC §137, 38 U.S.C. §3101)

Section 137 of the Internal Revenue Code, IRC §137, 26 U.S.C. §137, provides cross reference to Section 3101 of Title 38, United States Code, 38 U.S.C. §3101, for exemption from federal taxation for benefits under laws administered by the Veterans Administration (Department of Veterans Affairs). Eligibility for benefits under laws administered by the Department of Veterans Affairs requires service as a member of the armed forces of the United States. Accordingly, the exemption from federal taxation for veterans' benefits is included within this listing of federal tax benefits provided to members of the armed forces. Many benefits administered by the Department of Veterans Affairs are related to disabilities incurred or aggravated during a period of service as a member of the armed forces. However, the Department of Veterans Affairs also administers the Veterans' Educational Assistance Program under which veterans and current members of the armed forces may obtain financial assistance to pursue higher education goals. Assistance under these programs is excluded from gross income.

Moving and Storage Expenses (IRC §217(g))

Section 82 of the Internal Revenue Code, IRC §82, 26 U.S.C. §82, specifically includes in gross income (as compensation for services) any amount received by an individual as payment or reimbursement for the expenses of moving from one residence to another residence in connection with employment. Under Section 217, certain expenses are deductible in arriving at taxable income.

Subsection 217(g) of the Internal Revenue Code, IRC §217(g), 26 U.S.C. §217(g), provides a different rule for members of the armed forces. Under this subsection, any moving and storage expenses that are furnished in-kind (or for which reimbursement or an allowance is provided, but only to the extent of the expenses paid or incurred) to a member of the armed forces on active duty who moves pursuant to a military order and incident to a permanent change of station are excluded from gross income. The exclusion also extends to moving and storage in-kind and moving reimbursements and allowances provided to a member's spouse and dependents in connection with the member's permanent change of station.

Exemption from Income Tax

Income Tax Exemption for Certain Deceased Members of the Armed Forces (IRC §692)

Under Section 692 of the Internal Revenue Code, IRC §692, 26 U.S.C. §692, the federal income tax does not apply for any taxable year in which a member of the armed forces dies while in active service in a combat zone (as determined under Section 112, *supra*) or as a result of wounds, injury, or disease incurred while serving in a combat zone. This exemption extends to income tax on all sources of taxable income, not just compensation for service as a member of the armed forces. The exemption is also applicable to members of the armed forces who die as a result of injuries incurred as the result of a terrorist or military action. Unlike most other military tax benefits, the exemption from income tax for death as a result of wounds or injuries incurred in a terrorist or military action is also applicable to civilian employees of the United States who die in the same circumstances. The exemption applies to the year death occurs and every prior year served in a combat zone or one prior year in the case of death resulting from terrorist or military action.

Exemption from Income Tax Limitations

Various provisions of subtitle A of Title 26 related to the imposition of the federal income tax impose various requirements and restrictions on the availability of certain provisions. In many cases, members of the armed forces are exempt from these limitations or different, less demanding or more generous limitations are prescribed for members of the armed forces.

Earned Income Credit (IRC §32)

Under Section 32 of the Internal Revenue Code, IRC §32, 26 U.S.C. §32, an eligible individual is entitled to a refundable credit against federal income tax in an amount of up to $5,657 (in tax year 2009) for families with three or more qualifying children. If the amount of the credit exceeds tax liability, the excess is paid to the taxpayer in the form of a refund. The amount of the credit is based on taxable earned income. To be eligible, an individual's principal place of abode must be in the United States.

Under paragraph (4) of subsection (c) of Section 32, a member of the armed forces of the United States stationed outside the United States while serving on extended active duty shall be treated as having a principal place of abode in the United States for purposes of the earned income credit. As a result, a member of the armed forces is exempt from the requirement to have his or her principal place of abode in the United States.

Section 3507 of the Internal Revenue Code, IRC §3507, 26 U.S.C. §3507, requires employers to make advance payment of the earned income credit to employees who have filed an eligibility certificate with the employer. The amount of the advanced payment of the earned income credit is based on employee's wages for a payroll period. For members of the armed forces, the earned income advance amount is determined by taking into account the member's earned income as determined under Section 32 rather than wages under 3402 of the Internal Revenue Code.

Moving Expenses Deductions (IRC §217)

Section 82 of the Internal Revenue Code, IRC §82, 26 U.S.C. §82, mandates that reimbursements and allowances paid to an employee to offset expenses of moving from one residence to another residence in connection with employment are included in gross income, and Section 217 of the Internal Revenue Code, IRC §217, 26 U.S.C. §217, authorizes a deduction for certain expenses paid or incurred in connection with certain moves. As explained above, subsection (g) of Section 217 of the Internal Revenue Code provides an exclusion from gross income for moving and storage benefits and allowances provided to members of the armed forces and their dependents in connection with a permanent change of station.

To be deductible, Section 217 requires that the taxpayer's new principal place of work must be at least 50 miles farther from his or her former residence than was his or her former residence. In addition, the taxpayer must be a full-time employee in the same general location of the new principal place of work for at least 39 weeks. Under subsection (g), members of the armed forces who move in connection with a permanent change of station are exempt from the 50-mile and 39-week rules.

IRA Deductions (IRC §219)

Under Section 219 of the Internal Revenue Code, IRC §219, 26 U.S.C. §219, in 2016 every individual receiving compensation for services included in gross income subject to tax could make a contribution of up to $5,500 per year to an Individual Retirement Account (IRA). Taxpayers over the age of 50 may make an additional contribution of $1,000 for a total of $6,500. If an individual is an active participant in an employer-provided retirement system, including a plan established by the United States for the benefit of its employees, the amount of a contribution to an IRA that may be deducted is limited if the individual's adjusted gross income exceeds certain amounts. Between 2009 and 2016, the maximum amount increased from $89,000 to $98,000 for members filing jointly and from $55,000 to $61,000 for members filing as single or head of household. Partial deductions are available to active members with employer-provided retirement plans if those members' income falls within a specified range. Between 2009 and 2016, the range increased from $89,000–$109,000 to $98,000–$118,000 for members filing jointly and from $55,000–$65,000 to $61,000–$71,000 for members filing as single or head of household.

Active participation does not require any vesting of a pension benefit. Active participation requires that an employee earn something toward an employer-provided retirement benefit. An active participant in

an employer-provided retirement system must be earning something toward a potential retirement benefit, such as accruing years of service for purposes of calculating a retirement benefit.

Satisfactory completion of 20 years of active service in the reserve components of the armed forces can provide the basis for reserve component retirement benefits. Entitlement to reserve component retired pay for non-regular service requires completion of 20 years of qualifying service as an active member of the reserves. Payment begins at age 60 (but may begin earlier if a member has qualifying service that entitles the member to a reduced retirement age), pursuant to Section 12739 of Title 10, United States Code. Consequently, a member of the reserves who is performing active service as a member (usually by monthly weekend drills and two weeks of annual active duty for training) is earning something toward a government-provided retirement system and, as a result, would be considered an active participant in a retirement system established by the United States.

Pursuant to subsection (g)(6) of Section 219 of the Internal Revenue Code, a member of the reserve component of the armed forces of the United States is exempt from this limitation. An active member of a reserve component of the armed forces is not treated as an active participant in a retirement system established by the United States as a result of service as a member of the reserves for purposes of deducting a contribution to an IRA unless the member serves on active duty for a period in excess of 90 days during a year. Periods of active duty for training are disregarded.

Expenses Relating to Exempt Income (IRC §265)

Under Section 163 of the Internal Revenue Code, IRC §163, 26 U.S.C. §163, interest on indebtedness to acquire a residence and interest on certain home-equity indebtedness are deductible as an itemized deduction. Under Section 164 of the Internal Revenue Code, IRC §164, 26 U.S.C. §164, state and local real property taxes are also deductible as an itemized deduction.

Members of the armed forces on active duty who are not provided with housing for themselves and their dependents are entitled to housing allowances payable in cash. These cash allowances are excluded from gross income (see Military Benefits, above). Section 265 of the Internal Revenue Code, IRC §265, 26 U.S.C. §265, limits the deduction of otherwise allowable deductions to the extent the deduction is considered allocable to income exempt from federal income tax. Since cash housing allowances provided to a member of the armed forces are excluded from gross income, they could be considered income exempt from federal income tax for purposes of Section 265. If mortgage interest and real property taxes on a personal residence were considered allocable to exempt income in the form of tax-free housing allowances, members would not be permitted to deduct these normal expenses of home ownership. Application of the provisions of Section 265 to a member's deduction for mortgage interest and real property taxes would decrease or eliminate the benefits of these deductions and increase a member's federal and, in most cases, state tax liability.

To prevent application of Section 265 to members of the armed forces, subsection (a)(5) of Section 265 of the Internal Revenue Code provides that Section 265 shall not apply to deny deductions for mortgage interest or real property taxes on the home of a military taxpayer as a result of receiving a military housing allowance.

Exclusion of Gain on Sale of Principal Residence (formerly IRC §1034, now §121)

Prior to May 1997, section 1034 applied to sale of a principal residence and allowed for a deferral of capital-gain tax on such a sale if the taxpayer met certain requirements in purchasing a replacement residence. Internal Revenue Code Section 121 replaced this provision of the law beginning in May 1997.

Under section 121, taxpayers may exclude up to $250,000 of gain on a sale of a principal residence (or $500,000 of gain for married taxpayers filing jointly) as long as the taxpayer owned and occupied the residence as a principal residence for two of the five years prior to the date of sale. Because of frequent relocations, military members often had difficulty meeting this requirement. For this reason, the Military

Family Tax Relief Act, Pub. L. No. 108-121, 177 Stat. 1336 (2003), provided an extension of the capital-gain exclusion on home sales. Section 121 of Title 26 of the U.S. Code states that a military member may exclude up to $250,000, or $500,000 for married couples filing jointly, of the profit gained from sale of a residence in which the member resided for at least two of the five years preceding the sale. This 2003 amendment of the tax law effectively extends the five-year period for up to 10 years by excluding from the five-year computation time in which a member or spouse was away from the residence on extended military duty. Extended military duty includes a period of duty longer than 90 days in a location more than 50 miles from the residence or under orders compelling residence in government-furnished quarters.

Other Taxes

Estate Taxes

Subtitle B of Title 26, United States Code

Exemption from Additional Estate Tax (IRC §2201)

Subtitle B of Title 26, United States Code (Internal Revenue Code Section 2001 *et seq*., 26 U.S.C. §2001 *et seq*.) entitled Estate and Gift Taxes, imposes federal taxes on estates and gifts. Chapter 11 (IRC § 2001 *et seq*.) imposes a federal tax on estates. Pursuant to Section 2011(d) of the Internal Revenue Code, the federal estate tax consists of the basic estate tax and the additional estate tax. The basic estate tax is 125 percent of the amount determined to be the maximum credit for state death taxes. The additional estate tax is the difference between the federal estate tax imposed by Section 2001 or 2101 and the basic estate tax. Under Section 2010, every decedent is entitled to an estate tax credit that has the effect of establishing a maximum tax-free transfer of a taxable estate. Between 2006 and 2009, the maximum tax-free estate value stood at $2,000,000. For 2009 the exclusion was increased to $3,500,000. The estate tax was repealed for decedents dying in 2010.

In late December 2010, Congress reinstated the estate tax with significantly higher estate tax credit that resulted in a tax free estate value of $5,000,000 and indexed this amount for inflation. The effective tax free estate values from 2011 through 2016 were as follows: 2011-$5,000,000; 2012-$5,120,000; 2013-$5,250,000; 2014-$5,340,000; 2015-$5,430,000; and 2016-$5,450,000. Furthermore, this legislation allowed a decedent who was survived by a spouse to elect to pass any of the decedent's unused tax free value to the surviving spouse.

Pursuant to Section 2201 of the Internal Revenue Code, the additional estate tax as defined above shall not apply to the transfer of the taxable estate of a citizen or resident of the United States dying while in active service as a member of the armed forces of the United States if the decedent was killed in action while serving in a combat zone, as determined under Section 112, *supra*, or died as a result of wounds, disease, or injury suffered while serving in a combat zone, while in the line of duty, by reason of a hazard to which he was subjected as an incident to such service. The imposition of state death taxes and the credit against federal estate taxes for state death taxes paid increases the taxable estate that can be transferred free of federal estate taxes.

Employment Taxes

Subtitle B of Title 26, United States Code

Exemption from FICA Taxes (IRC §3121(i)(2))

To finance the federal system of old age, survivor, disability, and hospital insurance (known as Social Security), Section 3101 of the Internal Revenue Code, IRC §3101, 26 U.S.C. §3101, imposes an excise tax on the wages of employees. This tax is known as the Federal Insurance Contributions Act (or FICA) tax. The first dollar of covered wages is subject to tax. The old age, survivor, and disability insurance tax rate is 6.2 percent and is applicable to the first $118,500 of wages (for 2016). The hospital insurance tax rate is 1.45 percent, and all wages paid are subject to this tax.

In general, "wages" means all remuneration from employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash, with certain specified exemptions. The Servicemen's and Veteran's Survivor Benefits Act, 70 Stat. 857, ch. 837, Pub. L. No. 84-881 (1956), made certain compensation for service as a member of the uniformed services subject to FICA tax. However, pursuant to paragraph (2) of subsection (i) of Section 3121, the term "wages" shall only include basic pay, as described in Chapter 3 and Section 1009 of Title 37, United States Code, 37 U.S.C. §1009. The term "wages" as applied to members of the uniformed services also includes compensation received for service as a member of the reserves.

As explained previously, a member of the uniformed services may be entitled to many special or incentive pays such as hazardous duty incentive pay, aviation career incentive pay, submarine duty incentive pay, diving duty pay, etc. Although each of these special and incentive pays is included in gross income subject to federal income tax, none is included in wages subject to FICA taxes.

Exemption from Withholding (IRC §3401)

In general, every employer making payment of wages is required to deduct and withhold federal income tax on wages paid to employees in accordance with tables and schedules based on marital status, dependents, and additional allowances for excess itemized deductions. Pursuant to Section 3401(a)(1) of the Internal Revenue Code, IRC §3401(a), 26 U.S.C. §3401(a), the term "wages" for purposes of withholding income tax does not include remuneration paid for active service performed in a month for which a taxpayer is entitled to the exclusion from gross inclusion for service in a combat zone. This exclusion from wages subject to withholding for remuneration paid for a month during which a member served in a combat zone or was hospitalized as a result of such service immediately increases the monthly take-home of every member of the armed forces entitled to the exclusion of Section 112 for combat-zone service.

This exclusion from wages subject to withholding also presented problems for commissioned officers. Prior to a 1996 amendment, Section 3401(a)(1) provided an exclusion from withholding for any member of the Armed Forces entitled to an exclusion from gross income for service in a combat zone without regard to the amount excluded from gross income. The amendment limited that entitlement with the phrase, "to the extent remuneration for such service is excludable from gross income under this section" [section 112]. As explained above, the monthly exclusion for commissioned officers is limited. Prior to the 1996 amendment that increased the monthly exclusion for commissioned officers to the highest level of enlisted pay plus imminent danger pay if paid that month, the exclusion was limited to $500. If compensation for a commissioned officer exceeded the amount excluded from gross income, an unlimited exemption from withholding created an "under-withheld" situation in which the amount withheld would be less than the tax liability. Financial difficulties could arise if the officer did not authorize additional income-tax withholding or otherwise did not set aside amounts to satisfy this tax liability. This dilemma was remedied when subsection 3401(a)(1) was amended to limit the exclusion from withholding to the amount excluded from gross income under Section 112.

Excise Taxes

Subtitle D of Title 26, United States Code (Internal Revenue Code Section 4001 *et seq.*), Chapters 31 through 47, impose a number of different federal excise taxes including retail excise taxes (Chapter 31), manufacturing excise taxes (Chapter 32), and facilities and services excise taxes (Chapter 33).

Exemption from Toll Telephone Excise Tax (IRC §4253)

Subchapter B of Chapter 33 (IRC §4251 *et seq.*, 26 U.S.C. §4251 *et seq.*) imposes a federal excise tax on certain communication services, including local telephone service, toll telephone service, and

teletypewriter exchange service. Pursuant to Section 4251, this federal excise tax is equal to 3 percent of amounts paid for communication services subject to tax.

Section 4253 establishes several exemptions from the communication excise tax. Under subsection (d), toll telephone service that originates within a combat zone from a member of the Armed Forces of the United States performing service within such zone, as determined under Section 112, *supra*, is exempt from the federal excise tax on such toll telephone service.

Procedure and Administration Exemptions

Subtitle F, Title 26, United States Code (Internal Revenue Code Sections 6001 *et seq*., 26 U.S.C. §6001 *et seq*.) establishes procedure and administrative rules for various federal tax purposes. These matters pertain to information reporting, returns, time and place of paying tax, collections, etc. Several provisions provide special rules for members of the armed forces.

Joint Returns/Surviving Spouse for Missing Status (IRC §§2(a)(3) and 6013(f)(3))

In general, Section 6013 of the Internal Revenue Code, IRC §6013, 26 U.S.C. §6013, authorizes a husband and wife to make a single joint return even though one had neither gross income nor deductions. Subsection (f) of Section 6013 permits the spouse of an individual in a missing status as a result of service in a combat zone, as determined under Section 112, s*upra* (including a member of a uniformed service in a missing status entitled to pay and allowances under Section 552 of Title 37, United States Code, 37 U.S.C. §552), to elect to file a joint return. This election may be revoked by either spouse on or before the due date (including extensions) for such taxable year. See Postponements, *infra*.

Under Section 1 of the Internal Revenue Code, IRC §1, 26 U.S.C. §1, the tax table for a surviving spouse is the same as the tax table for married individuals filing joint returns. Section 2 of the Internal Revenue Code, IRC §2, 26 U.S.C. §2, defines surviving spouse as a taxpayer whose spouse died during either of his two taxable years immediately preceding the taxable year and who maintains as his home a household which is the principal place of abode of a dependent son, stepson, daughter, or stepdaughter of the taxpayer. If a deceased spouse was in a missing status as a result of service in a combat zone, then, for purposes of eligibility as a surviving spouse, the date of death shall be established as the earlier of: (A) the date of determination of death, or (B) the date two years after the date of termination of combatant activities in that combat zone.

Exemption from Reporting

Section 6051 of the Internal Revenue Code, IRC §6051, 26 U.S.C. §6051, requires every employer who is required to deduct and withhold taxes under 3402 of the Internal Revenue Code to furnish to each employee a written statement showing various items, including the total amount of wages as defined in Section 3401(a) (related to income tax withholding), IRC §3401(a), 26 U.S.C. §3401(a), and the total amount of wages as defined in 3121(a) (related to FICA taxes), IRC §3121(a), 26 U.S.C. §3121(a). This written statement is the familiar W2 form received by every employee no later than January 31 for the preceding year.

For members of the uniformed services, the amounts to be shown as FICA wages are modified to reflect wages, as computed under Section 3121(i)(2), which limits FICA wages to basic pay. In addition, in lieu of wages as defined in Section 3401, the statements furnished to members of the armed forces are required to show as wages paid the amount of such compensation that is not excluded from gross income under Chapter 1 of the Internal Revenue Code (whether or not such compensation constitutes wages as defined in Section 3401(a)). This has the effect of making the Department of Defense the administrator of military tax exclusions under Section 104 (related to compensation for disability) and Section 112 (related to compensation for service in a combat zone). Statements provided to members of the armed forces must also include such member's earned income as determined for purposes of Section 32 (relating to earned income credit).

Exemption from Levy

If any person liable to pay any tax neglects or refuses to pay the tax after notice and demand, Section 6331 of the Internal Revenue Code, IRC §6331, 26 U.S.C. §6331, authorizes the Secretary of the Treasury Department to collect such tax by levy upon all property and rights to property belonging to such person. Section 6334 of the Internal Revenue Code provides that certain property is exempt from levy including certain amounts paid to members of the armed forces and annuities based on retired pay.

In particular, paragraph (6) of subsection (a) of Section 6334, IRC §6334, 26 U.S.C. §6334, provides exemption for two payments received as a result of service as a member of the armed forces. The first enumerated exemption from levy is for the "special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 562)." The second exemption from levy is for "annuities based on retired or retainer pay under Chapter 73 of Title 10, United States Code." These annuities are the annuities payable to surviving spouses and other eligible beneficiaries of a deceased member of the uniformed services under the Survivor Benefit Plan (SBP) of the Retired Serviceman's Family Protection Plan (RSFPP).

Postponements Because of Combat Zone Service (IRC §7508)

Federal tax law requires certain acts to be performed within specified time frames. For example, Section 6072 of the Internal Revenue Code, IRC §6072, 26 U.S.C. §6072, requires individual income tax returns to be filed on or before April 15 of the year following the close of the calendar year. Under Section 6151 of the Internal Revenue Code tax is to be paid at the time and place fixed for filing a tax return.

Section 7508 of the Internal Revenue Code, IRC §7508, 26 U.S.C. §7508, provides a postponement in the time when certain acts must be performed for a member of the Armed Forces of the United States serving in a combat zone as designated by the President by executive order under Section 112 of the Internal Revenue Code, *supra*, an individual serving in support of such armed forces in a combat zone or in support, or an individual serving in a contingency operation outside the United States. The postponement continues for the period of service in the combat zone, any periods of hospitalization as a result of injury received while serving in a combat zone, 180 days thereafter, plus whatever time the individual had remaining in the normal schedule for such acts on the day when he entered into combat or contingency service.

The postponement extends to: a) filing any return for income tax, estate tax, or gift tax; b) payment of any income, estate, or gift tax, or any other liability to the United States related to such taxes; c) filing a petition with the Tax Court for redetermination of a deficiency, or a petition for judicial review of a decision of the Tax Court; d) allowance of a credit or refund of any tax; e) filing a claim for credit or refund of any tax; f) bringing suit upon a claim for refund; g) assessment of any tax; h) giving or making notice or demand for the payment of any tax; i) collection by levy or otherwise; j) bringing suit by the United States in respect of any liability for tax; and k) any other act required or permitted under the internal revenue laws as specified in regulations. The postponement period is also disregarded in determining the amount of any credit or refund but is considered for purposes of determining the amount of interest on an overpayment.

Individuals eligible for postponement include members of the armed forces and other individuals serving in support of the armed forces, such as Red Cross workers, civilian employees of the federal government, and accredited correspondents. In addition, under subsection (c) of Section 7508, the provisions of Section 7508 apply to the spouse of any individual entitled to postponement under Section 7508.

As a result of Pub. L. No. 102-2, 105 Stat. 5 (1991), enacted shortly after the designation of the Persian Gulf combat zone, postponement under Section 7508 is also applicable to individuals performing Desert Shield services. Under subsection 7508(f) of the Internal Revenue Code, Desert Shield services are defined as service in the armed forces of the United States or in support of the armed forces in the area designated by the President by executive order as the "Persian Gulf Desert Shield area" during the period beginning on August 2, 1990, and ending on the date when any part of the designated area was designated

as a combat zone pursuant to Section 112. Executive Order 12750, 56 Fed. Reg. 6785 (February 14, 1991), designated the Desert Shield area as the Persian Gulf, the Red Sea, the Gulf of Oman, a portion of the Arabian Sea north of 10 degrees north latitude and west of 68 degrees east longitude, the Gulf of Aden, and the land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates. Executive Order 12744, 56 Fed. Reg. 2663 (January 21, 1991), designated as a combat zone an area identical to the Desert Shield area. Because Executive Order 12744 designated January 17, 1991, as the date of commencement of combatant activities in the Persian Gulf combat zone, eligibility for postponement as a result of service in the Desert Shield area terminated as of that date, and eligibility for postponement as a result of service in a combat zone commenced on that date.

As indicated above, the Act of March 20, 1996, Pub. L. No. 104-117, 110 Stat. 827 (1996), provided that service in the armed forces of the United States or in support thereof in the area designated as a "qualified hazardous duty area" is to be treated as service in a combat zone for purposes of Section 112. Three areas currently possess this designation: Afghanistan, and nearby Pakistan, Tajikistan, Uzbekistan, Kyrgyzstan, and Jordan; the Persian Gulf, plus the Red Sea, the Gulf of Oman, the Gulf of Aden, and part of the Arabian Sea, as well as the countries of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates; and the former Yugoslavian nations, as well as Albania, the Adriatic Sea, and part of the Ionian Sea.

Conclusion

As indicated by the preceding, the Internal Revenue Code is replete with many explicit statutory provisions that provide special treatment for members of the armed forces. Special tax measures for members of the armed forces are an important part of federal tax policy. The explanations above highlight provisions of the Internal Revenue Code in effect as of January 1, 2009. These various provisions are the product of numerous revisions enacted throughout the duration of the twentieth century to respond to changing circumstances. The parameters and contours of these provisions will undoubtedly undergo further change to respond to the challenges in the future related to the taxation of members of the armed forces.

Appendix VI
Impact of State Income Taxes on Military Compensation

Introduction: Generally speaking, members of the armed forces are subject to both state and federal income taxation on their military compensation. The disposable income of a member of the armed forces—what the member has to spend after paying all income tax liabilities, state and federal, associated with his or her military compensation—depends on the amount, or level, of the member's state and federal income tax liability, among other things. In general, the rules concerning state income taxation of military compensation are not the same for all members of the armed forces—even for those who are similarly situated with respect to pay grade, years of service, entitlements to special and incentive pay, and family situation. To the extent that the military personnel and compensation systems are intended to provide incentives to induce men and women to engage in military careers, those incentives may be affected by disparities in the income tax laws of the various states and localities throughout the United States. This appendix is intended to highlight the major tax policies of the various states insofar as those tax policies may have a differential impact on similarly situated personnel.[1] In this same connection, and because of the intimate relationship between the state income tax liabilities of members of the armed forces and the Servicemembers' Civil Relief Act, this appendix also highlights the effects of the Servicemembers' Civil Relief Act on the state income tax liabilities of members of the armed forces and their spouses. The latter subject is discussed in Section I, below, and the former, in Section II. Section I considers two subjects: the Servicemembers' Civil Relief Act and state income taxation of military compensation, and the Servicemembers' Civil Relief Act and state income taxation of non-military compensation. Section II provides a brief overview of state income taxation of military compensation, in alphabetical order by state, including the District of Columbia.

I. The Servicemembers' Civil Relief Act.

* The Servicemembers' Civil Relief Act and State Income Taxation of Military Compensation.

Every member of the armed forces is subject to federal income taxation under the Internal Revenue Code, classified to Title 26, United States Code. Some members are entitled to exclude all or a portion of their income that would otherwise be subject to taxation under the Internal Revenue Code because of particular conditions of service. For instance, Section 112 of the Internal Revenue Code, 26 U.S.C. §112, specifically provides that "gross income" is not to include a specified portion of the income a member of the armed forces "received for active service ... for any month during any part of which [the] member ... served in a combat zone." However, the federal income tax laws are generally applicable to all members of the armed forces. The general rule is that, unless a specific exception applies, all compensation received by a member of an armed force on account of such service is subject to taxation under the Internal Revenue Code.[2]

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[1] A discussion of the differences in tax rates applicable to military compensation in different states is beyond the scope of the present appendix.

[2] As previously indicated, see Chapter II.B.4., above, "Federal Income Tax Advantage," the amounts received by members of the uniformed services as basic allowance for housing and basic allowance for subsistence are not subject to taxation under the Internal Revenue Code. The exclusion of such items from "gross income" derives from a decision rendered by the United States Court of Claims in 1925 in a case titled *Jones v. United States*, 60 Ct.Cl. 552 (1925). In that case, the Court of Claims determined that neither the provision of government quarters nor any allowance provided in commutation thereof was "compensatory" in nature and on that account should not be included in income subject to taxation. While the *Jones* case dealt only with quarters, the rationale of the decision has been extended to various other allowances, including basic allowance for subsistence as well as variable and overseas station housing allowances. See Chapter II.B.4., "Federal Income Tax Advantage," generally, above.

In addition to being subject to income taxation under the federal Internal Revenue Code, members of the armed forces are also subject to income taxation by state and local taxing authorities.[3] Persons subject to the tax laws of a particular state are persons who are, in some sense or other, "subject to the jurisdiction" of that state, and if a member of a uniformed service is in fact subject to the income-tax jurisdiction of a particular state, the member is treated no differently than any person would be who is similarly situated with respect to that state for the purpose of determining state tax liabilities.[4]

As a general matter, persons subject to the jurisdiction of a particular state for the purposes of the income tax laws of that state are persons who qualify as residents of that state or who otherwise derive income from a source or sources within that state. From the point of view of the taxing authorities of the states, there are two categories of persons who may be treated as "residents" for purposes of determining income-tax jurisdiction. First, a state may assert "tax jurisdiction" over persons who, while not physically present in that state, have a relationship with the state that amounts to "legal residence." Included in this category are individuals who, even though they do not maintain a place of permanent abode within the state, vote within the state, have automobiles licensed within the state, and who regard themselves, for whatever reason, as residents of the state. Typically, persons who at one time were physically present in a state, who were on that account treated as residents of the state, who have left the state on a temporary basis, and who have an intention sometime to return to the state to resume permanent physical residence, are regarded as legal residents of the state. Second, and conversely, a state may assert tax jurisdiction over persons who are physically present in the state even if they do not intend to remain there permanently.

Under the general principles concerning potential liability for state income taxes briefly set out above, a person who is a legal resident of one state and a physical resident of another state is potentially subject to the income-tax jurisdiction of both states. For most purposes, however, legal and physical residency go hand in hand, and it may safely be stated that the vast majority of people wish to be regarded as legal residents of the state where they physically reside—if for no other reason than to minimize the likelihood of being subjected to the income-taxing jurisdictions of two or more states and other similar problems.[5] Indeed, for the vast majority of people the question never really arises, as legal and physical residence are in fact united in one state.

Members of the armed forces are, however, in a different position. They may well find themselves being treated as legal residents of the state in which they resided when they initially entered the armed forces and as residents of the state in which they physically reside while on active duty in the armed forces. Thus, a member of the armed forces who is a legal resident of one state but who is stationed and living in another state could be regarded as a "resident" subject to income taxation by the taxing authorities of each state—as a "legal resident" of the first state and as a physically present "resident" of the second state. Under the principles previously stated, the state where a member of the armed forces lives and is stationed—even if different from the state where the member legally resides—thus has two potential grounds for asserting income-tax jurisdiction over the member: first, on the ground that the member is a "resident" of that state, at least in the physically present sense set out above, and second, on the alternative ground that, even if not a "resident," no matter how the term may be interpreted, the member is in receipt

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[3] Although local income tax laws have the potential for having the same kinds of effects on the incentives created by the military personnel and compensation systems as state tax laws do, a discussion of local tax laws is beyond the scope of this appendix. Accordingly, although this appendix considers only state income tax laws, the reader should keep in mind that localities' tax laws may have similar effects.

[4] This is not to suggest that the tax liabilities of a member of the uniformed services and a non-member both of whom have the same level of "income" will be exactly the same. Some states have excluded from income taxation certain categories of military compensation, and others have excluded some initial amount of military compensation from the "income" that would otherwise be subject to taxation. Where relevant, these differences will be highlighted below.

[5] Persons maintaining physical residences in two or more jurisdictions in each of which they have a source or sources of earned income have to face the problem of which jurisdiction to treat as their legal residence squarely. The resolution of this issue raises a number of questions that are basically factual in nature.

of income from a source, i.e., from the member's station, that is within the state. A very slightly altered set of factual assumptions could theoretically make a member of the armed forces subject to taxation on the member's military compensation in three states: if the member is a legal resident of one state, is living in a second, and is stationed in a third, the member could be subject to income taxation on the member's military compensation by the state where the member legally resides, by the state where the member physically resides, and by the state where the member is stationed.

The Servicemembers' Civil Relief Act[6] deals with these various situations by providing, in essence, that a member of the armed forces who is a legal resident of one state but maintains an abode and is stationed in another—or others—has income-tax liability with respect to his or her military compensation only to his or her state of legal residence.

*** The Servicemembers' Civil Relief Act and State Income Taxation of Non-Military Compensation.**

Despite the fact that a member of the armed forces may choose as his or her state of legal residence a state different from the state where he or she lives or is stationed and that, under the Servicemembers' Civil Relief Act, the state where the member physically resides or where he or she is stationed may not assert income tax jurisdiction over the member's military compensation, the Servicemembers' Civil Relief Act does not shield a member's non-military compensation from income taxation by the state where the member physically resides or by the state from which the member derives non-military compensation. Similarly, the Servicemembers' Civil Relief Act has no effect on income earned by a non-service-member spouse of a member of the armed forces. These two facts may add substantially to the difficulty of filing state income tax returns.

Thus, for instance, if a member of the armed forces is a legal resident of State A, physically resides in State B, has a part-time job in State C, owns a retirement house that is currently being rented out in State D, and has a spouse who is employed in State E, the member may have to deal with five taxing jurisdictions. First, the member's spouse will, in all probability, have to pay income taxes to State E, where he or she is employed, on the amount of income the spouse earned in State E. State B will, in all probability, treat the member's spouse as a "resident" for state income-tax purposes, and the member's spouse will have to file a tax return with respect to the income earned in State E, although the spouse will, in all probability, be able to credit the amount of the tax paid to State E against the tax due and owing to State B on account of the State-E income. The member will, in all probability, have to file a tax return for State C with respect to the amount of income earned from the part-time job. The member will also have to file a tax return in State A covering both the member's military compensation and earnings from the part-time job, although the member will, most probably, be able to claim a credit for the income taxes paid to State C on account of the part-time job. With respect to the income earned from the rental of the retirement house in State D, a further tax return will, in all probability, be required for State D based on the amount of the rental income received. If the member and the member's spouse jointly own the rental property, they will, in all probability, have to apportion the income between them and report the apportioned amount credited to each as income, respectively, in State A, the state of the member's legal residence, and in State C, the state in which the member's spouse is "resident," although each will, in all probability, be able to credit the amount of the tax paid to State D on account of the rental income against the taxes due and owing to States A and C, respectively. If the member and the member's spouse derive investment income from property inherited by

[6] The Soldiers' and Sailors' Civil Relief Act of 1940, which was enacted by the Act of October 17, 1940, ch. 888, Pub. L. No. 76-861, 54 Stat. 1178 (1940), is codified at 50 U.S.C. §§ 3901-4043. The particular provision of the Soldiers' and Sailors' Civil Relief Act that is at issue with respect to the state income tax liabilities of members of the armed forces is classified to 50 U.S.C. §4001. In 2003 a major revision of the Soldiers' and Sailors' Civil Relief Act of 1940 was enacted by the Act of December 19, 2003, Pub. L. No. 108-189, 117 Stat. 2835 (2003), which changed the name of the act to the Servicemembers' Civil Relief Act. The new act retained the provisions of the 1940 law regarding state income taxation of military compensation.

each in States F and G, respectively, the same rules outlined above will most probably apply to that further income as well. Since the member files with respect to his or her military compensation and other attributable income in State A and the member's spouse files with respect to his or her compensation and other attributable income in State C, the possibility exists that each will be treated by his or her state of filing as married but filing separately, which has the effect of prohibiting the member and spouse from taking advantage of the generally lower tax rates applicable to joint returns.

Exactly how the possibilities outlined above will be applied in practice depends on the income-tax laws and regulations of the different states and on the precedent of court decisions interpreting those laws and regulations. To the extent that the Servicemembers' Civil Relief Act was initially intended to simplify the complex of state laws and regulations confronting members of the armed forces who were, as a consequence of their conditions of service, frequently forced to move from one state to another, the states, in their quest for ever greater sources of revenues, may be seen as having substantially undercut that purpose.

II. Overview of State Income Taxation of Military Compensation.

As indicated above, a member of the armed forces may be subject to income taxation on his military compensation by his state of legal residence. Depending on the state of a member's legal residence, the member may not have any state income-tax liability: some states do not impose any state income taxes whatsoever, whether a member of the armed forces or not; other states exempt military compensation from the operation of their income-tax laws; others exempt military compensation earned while stationed in another state or abroad from the operation of their income-tax laws; and still others exempt a portion of military compensation from the operation of their income-tax laws. On the other hand, some states tax military compensation independently of where the member is stationed. To determine how a particular state will tax the military compensation of one of its legal residents, it is necessary to consult the tax laws of that state.

In addition, there is a subsidiary question of whether a particular state follows federal tax rules with respect to members stationed in a "combat zone" or a "qualified hazardous duty area." Under Section 112 of the Internal Revenue Code, I.R.C. §112, 26 U.S.C. §112, an enlisted member of the armed forces is entitled to exclude from gross income subject to federal income taxation all military compensation received for active service for any month during any part of which the member served in a combat zone or was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone. Under the same provision, an officer is entitled to exclude from gross income subject to federal income taxation military compensation up to the maximum enlisted pay amount plus imminent danger pay amount ($8,390.10 per month in 2017, consisting of the $8,165.10 highest enlisted pay amount plus $225 hostile fire/imminent danger pay) for any month during any part of which the officer served in a combat zone or was hospitalized as a results of wounds, disease, or injury incurred while serving in a combat zone.[7] Under special rules adopted pursuant to the Act of March 20, 1996, Pub. L. No. 104-117, 110 Stat. 827 (1996) and the Act of April 19, 1999 Pub. L. No. 106-21, the same federal exclusions apply to compensation earned by a member of the Armed Forces for military service in a "qualified hazardous duty area," which includes Albania, the Adriatic Sea region, the Ionian Sea region north of the 39th parallel, Serbia, Kosovo and

[7] As a member's basic allowances for housing and subsistence, overseas station allowances, travel and transportation allowances, clothing allowances, as well as any other "qualified military benefits," are exempt from federal income taxation in any case, the "compensation" excludable by an officer under Section 112 of the Internal Revenue Code includes the total of basic pay and any special or incentive pays received by the officer, specifically including any hazardous duty and hostile fire pays, not to exceed the maximum enlisted pay amount ($8,165.10 per month in 2017), in addition to all the officer's "qualified military benefits." (With respect to the items of military compensation deemed "qualified military benefits", see in particular footnote 16 to Chapter II.B.4 hereof, "Federal Income Tax Advantage," together with the accompanying text, above. See also footnote 18 of that chapter with respect to the inclusion of the cost-of-living allowance for the Continental United States—so-called "CONUS COLA"—in military compensation subject to federal income taxation.)

Montenegro,[8] while the member is entitled to hostile fire or imminent danger pay under 37 U.S.C. §310 for service in such an area.[9]

The following three aspects of state income taxation of active-duty military compensation are dealt with below:

1. The extent to which active-duty military compensation is subject to income taxation by a particular state.
2. Whether that state provides a combat zone tax exclusion similar to that provided under the Internal Revenue Code, i.e., the "combat zone" exclusion of Section 112 of the Internal Revenue Code.
3. Whether that state provides qualified hazardous duty area (QHDA) benefits similar to those provided for federal income tax purposes under the Act of March 20, 1996, Pub. L. No. 104-117, 110 Stat. 827 (1996) or the Act of April 19, 1999, Pub. L. No. 106-21 (1999).

Information on these three aspects of state taxation of military compensation is provided for each of the 50 states of the United States and the District of Columbia.[10] [11] Unless otherwise noted, the only items of military compensation subject to state income taxation by those states that tax such compensation are basic pay and special and incentive pays.[12]

The following list highlights the special rules, incorporated in the income tax laws of the various states that apply to active-duty military compensation received by members of the Armed Forces who are, for one reason or another, subject to the income tax jurisdiction of those states.

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[8] Albania, the Adriatic Sea region, the Ionian Sea region north of the 39th parallel, and Serbia and Montenegro received status as qualified hazardous duty areas from Pub. L. No. 106-21 (1999). The combat zone tax exclusion designation for Kosovo (previously a province within Serbia) remains in force by Executive Order No. 13119 even though Servia and Kosovo became separate nations.

[9] The only "compensation" excludable from gross income, and hence from federal income taxation, under Section 112 of the Internal Revenue Code and the Act of March 20, 1996, Pub. L. No. 104-117, 110 Stat. 827 (1996), is military compensation. Any non-military compensation received by an individual member while serving in a "combat zone" or a "qualified hazardous duty area"—e.g., interest income, dividends received, capital gains, rent income, etc.—is not excludable under either of those provisions.

[10] For those states that have no state income tax or that exempt military compensation from state income taxation altogether, the issue of combat zone and qualified hazardous duty area exclusions does not arise.

[11] A fourth aspect of state income taxation of members of the armed forces deals with the question of whether a specific state provides extra time for a member of the armed forces subject to its income-tax jurisdiction who is stationed in a "combat zone" or a "qualified hazardous duty area" to prepare and file a state income-tax return. This question has special relevance with respect to non-military compensation earned by members of the armed forces subject to the income-tax jurisdiction of states that follow the federal exclusionary rules for service in a combat zone or qualified hazardous duty area. While identified here as an additional aspect of state income taxation of members of the armed forces of relevance to such members, that aspect is not dealt with in this appendix.

[12] As a practical matter, the federal government, as the "employer" of members of the armed forces, at the end of each year provides each member serving in the armed forces during any part of that year with a statement—known as a "W-2" wage statement—of the member's "military compensation" that is subject to income tax for that year. The cost-of-living allowance for the continental United States—so-called CONUS COLA—should be included in a member's W-2 statement as well as basic pay and special and incentive pays unless it is specifically excluded under the operation of Section 112 of the Internal revenue Code or the Act of March 20, 1996, Pub. L. No. 104-117, 110 Stat. 827 (1996). The information provided to each member on Form W-2 is also provided to the member's state of legal residence (if that state has a state income tax).

*** Alabama**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for service in a qualified hazardous duty area.

*** Alaska**

No state income tax.

*** Arizona**

Military compensation exempt from state income tax.

*** Arkansas**

Military compensation exempt from state income tax.

*** California**

1. Military compensation subject to state income tax unless stationed outside California on PCS orders.
1. Follows federal rules for combat zone tax exclusion.
2. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Colorado**

1. Military compensation subject to state income tax, except in certain cases of long-term absence from the country.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Connecticut**

1. Military compensation subject to state income tax, except in certain case of long-term absence from the state, or from the country.
2. Follows federal rules for combat zone tax exclusion for members subject to state income taxation.
3. Follows federal rules for qualified hazardous duty area tax exclusion for members subject to state income taxation.

*** Delaware**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** District of Columbia**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Florida**

No state income tax.

*** Georgia**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Hawaii**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Idaho**

1. Military compensation subject to state income tax unless member serves 120 or more consecutive days of active duty outside state.
2. Follows federal rules for combat zone tax exclusion for members subject to state income taxation.
3. Follows federal rules for qualified hazardous duty area tax exclusion for members subject to state income taxation.

*** Illinois**

Military compensation exempt from state income tax.

*** Indiana**

1. Military compensation subject to state income tax, except for first $2,000.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Iowa**

Military compensation exempt from state income tax.

*** Kansas**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Kentucky**

Military compensation exempt from state income tax.

*** Louisiana**

1. Military compensation subject to state income tax, although service member may claim an exemption of up to $30,000.00 on income earned while outside state, if stationed outside the state for 120 or more consecutive days.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Maine**

1. Military compensation subject to state income tax, except in certain cases of long-term absence from the state, or from the country.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Maryland**

1. Military compensation subject to state income tax unless serving abroad, in which case, first $15,000 is exempt if military pay does not exceed $30,000. Above $30,000, no exemption applies.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Massachusetts**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Michigan**

Military compensation exempt from state income tax but military personnel must file.

*** Minnesota**

Military compensation exempt from state income tax. Service member may also receive a $120.00 refundable credit for each month spent serving in a combat zone or hazardous duty area.

*** Mississippi**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Missouri**

Military compensation exempt from state income tax, but Service members are required to provide documentation of service.

*** Montana**

Military compensation exempt from state income tax, but Service members are required to provide documentation of service.

*** Nebraska**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Nevada**

No state income tax.

*** New Hampshire**

Military compensation exempt from state income tax.

*** New Jersey**

1. Military compensation subject to state income tax, except in certain cases of long-term absence from the state.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** New Mexico**

Military compensation exempt from state income tax.

*** New York**

1. Military compensation subject to state income tax, except in certain cases of long-term absence from the state.
2. Follows federal rules for combat zone tax exclusion for members subject to state income taxation.
3. Follows federal rules for qualified hazardous duty area tax exclusion for members subject to state income taxation.

*** North Carolina**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** North Dakota**

1. Military compensation subject to state income tax, with limited partial exemptions.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Ohio**

Military compensation subject to state income tax, unless service member is stationed outside the state.

*** Oklahoma**

Military compensation exempt from state income tax.

*** Oregon**

1. Military compensation subject to state income tax for residents, except in certain cases of long-term absence from the state. Service member may subtract up to $6,000.00 of active-duty pay earned in the state.
2. Service member may subtract any active-duty pay earned outside the state until the end of combat zone activities, as declared by the President, even if not stationed in a combat zone.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Pennsylvania**

1. Military compensation not taxable if member is stationed outside the state.

2. Follows federal rules for combat zone tax exclusion for members subject to state income taxation.
3. Follows federal rules for qualified hazardous duty area exclusion.

*** Rhode Island**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** South Carolina**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** South Dakota**

No state income tax.

*** Tennessee**

No state earned income tax.

*** Texas**

No state income tax.

*** Utah**

1. Military compensation subject to state income tax.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Vermont**

1. Military compensation subject to state income tax if stationed inside the state, and excluded if stationed outside of the state. Service members must provide documentation of service outside of the state to exclude military compensation.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Virginia**

1. Military compensation subject to state income tax. Military compensation up to $15,000 may be deducted; no deduction if military compensation exceeds $30,000.
2. Follows federal rules for combat zone tax exclusion, except that all military compensation for officers is excluded.
3. Follows federal rules for qualified hazardous duty area tax exclusion, except that all military compensation for officers is excluded.

*** Washington**

No state income tax.

*** West Virginia**

1. Military compensation subject to state income tax, except in certain cases of long-term absence from the state.
2. Follows federal rules for combat zone tax exclusion.
3. Follows federal rules for qualified hazardous duty area tax exclusion.

*** Wisconsin**

1. Military compensation subject to state income tax. If stationed outside the country, service member may claim a credit of up to $300.
2. Follows federal rules for combat zone tax exclusion.
3. Follows the federal rules for qualified hazardous duty area tax exclusion.

*** Wyoming**

No state income tax.

Appendix VII
Special Pay and Other Benefits for Missing Persons, Prisoners of War (POWs), and Victims of Terrorism

Note: Resource constraints led to the decision not to update all of the health sections in this eighth edition of Military Compensation Background Papers. Chapter II.D.I contains relevant health-related information that has not been updated since 2008.

Over the years, Congress has adopted a number of special provisions concerning the pays, allowances, and benefits of members of the uniformed services who are in a "missing status," who are "prisoners of war" (POWs), or who are victims of terrorism. As a general proposition, the special provisions are intended to leave members of the uniformed services who are missing, who are POWs, or who are victims of terrorism, and any of their dependents, in the same position they would have been if the members were not missing, POWs, or victims of terrorism. This appendix briefly summarizes the most important of those provisions.

Missing Persons

As a general proposition, the entitlement of members of the uniformed services to various pays and allowances for full-time military service turns upon their being on "active duty."[1] Entitlement to basic pay is explicitly premised on a member's being on active duty [37 U.S.C. §204(a)(1)], or other "full-time duty" [37 U.S.C. §204(a)(2)]. Entitlement to certain medical and other pays is also premised on being on "active duty." See, e.g., 37 U.S.C. §302(a)(1) (medical officers of the Armed Forces entitled to special pay under 37 U.S.C. §302 if "on active duty under a call or order to active duty for a period of not less than one year"); 37 U.S.C. §302a (optometrists entitled to "special pay [under 37 U.S.C. §302a] ... for each month of active duty"); 37 U.S.C. §302b (dental officers entitled to special pay under 37 U.S.C. §302b if "on active duty under a call or order to active duty for a period of not less than one year"); etc. Entitlement to various other special and incentive pays and allowances is premised on a member's being entitled to basic pay, which, as above indicated, is itself premised on the member's being on active duty. See, e.g., 37 U.S.C. §301(a) (entitlement to hazardous duty incentive pay premised, in the first instance, on a member's entitlement to basic pay); 37U.S.C. §301a(a)(1) (entitlement to aviation career incentive pay (ACIP) premised on entitlement to basic pay);[2] 37 U.S.C. §301c(a)(1) (entitlement to submarine duty incentive pay); 37 U.S.C. §304 (diving duty pay); 37 U.S.C. §402(a) (basic allowance for subsistence); 37 U.S.C. §403(a) (basic allowance for housing); etc. For all these pays and allowances, entitlement ceases when a person is no longer on active duty. In particular, a member's entitlement to these various pays and allowances ceases with the member's death, at which time there is a final settlement of accounts with respect to that member. [*Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay*, Volume 7A, 40512. See 10 U.S.C. §2771; *cf.* 37 U.S.C. §557.]

In most cases, it is reasonably clear whether a particular member is or is not alive and hence is or is not entitled to pay and allowances. In some cases, however, it is not at all certain whether a member is alive. In particular, because of the exigencies of a military career, members of the armed forces may be missing, and in that case it may not in practice be possible to determine readily whether they are or are not alive. Special rules have been adopted by Congress over the years to cover the pay and allowances entitlements of persons in such situations. These rules and provisions are set out in Titles 10 and 37, United States Code.

Until enactment of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No 104-106, §569, 110 Stat. 186, 336–53 (1996), questions concerning the status of missing persons and their continuing entitlement

[1] The term "active duty" is defined at 37 U.S.C. §101(18) as meaning: ... full-time duty in the active service of a uniformed service, and includes full-time training duty, annual training duty, full-time National Guard duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary concerned.

[2] Entitlement to aviation career continuation pay (AOCP) under 37 U.S.C. §301b—the catchline of which reads: "Special pay: aviation career officers extending period of active duty"—is premised on entitlement to ACIP, which is in turn, as above noted, premised on entitlement to basic pay.

to basic and other pays and allowances was governed solely by Chapter 10 of Title 37, United States Code, 37 U.S.C. §§551–558. The National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. §569, 110 Stat. 186, 336–53 (1996), established Chapter 76 of Title 10, United States Code, entitled "Missing Persons." That chapter governs questions concerning the status of certain missing persons, i.e., whether they are to be carried in a missing status on the rolls of the armed forces or may be declared dead, whereas questions concerning the entitlement to basic and other pays and allowances of members of the armed forces deemed to be in a missing status continue~~s~~ to be governed by Chapter 10 of Title 37, United States Code, 37 U.S.C. §§551–558.

In essence, members of the active-duty armed forces deemed to be missing as a result of hostile action are entitled to continuing pays and allowances under the provisions of Chapter 10 of Title 37, United States Code, until they are declared no longer to be in a missing status pursuant to the provisions of Chapter 76 of Title 10, United States Code. Status determinations for "[a]ny member of the Armed Forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for" are required to be made pursuant to the provisions of Chapter 76 of Title 10, United States Code. As explicitly stated in the 1996 Authorization Act, the purpose of the new chapter is:

> ... to ensure that any member of the Armed Forces (and any Department of Defense civilian employee or contractor employee who serves with or accompanies the Armed Forces in the field under orders) who becomes missing or unaccounted for is ultimately accounted for by the United States and, as a general rule, is not declared dead solely because of the passage of time.[3]

To this end, the new chapter requires the Secretary of Defense to establish an office of missing persons within the Department of Defense. The responsibilities of this office include the establishment of

> (A) policy, control, and oversight within the Department of Defense of the entire process for investigation and recovery related to missing persons (including matters related to search, rescue, escape, and evasion); and
>
> (B) coordination for the Department of Defense with other departments and agencies of the United States on all matters concerning missing persons.[4]

In addition to requiring the establishment of a special office to deal with missing persons, the new provisions also place stringent limitations on the ability of the Department of Defense and any of its military departments to declare a missing person to be dead.[5] Special provisions have been included for reviewing the status of persons previously declared dead who were involved in the Korean conflict, the Cold War, or the Indochina War era.[6] Finally, any person in a missing status or declared dead who is subsequently found alive and returned to the control of the United States is specifically provided to be entitled to all pay and allowances while in a missing status or while declared dead.[7] As stated by the House–Senate Conference Committee:

> The conferees expect that the Secretary of Defense will organize this new office to serve as the focal point in the Department of Defense for POW/MIA matters and consolidate the formulation and oversight of search, rescue, escape and evasion and accountability policies. The conferees further expect that the Secretary of Defense will make every effort to ensure a close working relationship with the national intelligence agencies.[8]

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[3] National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §569(a), 110 Stat. 186, 336 (1996).
[4] 10 U.S.C. §1501(a).
[5] 10 U.S.C. §1507(a).
[6] 10 U.S.C. §1509.
[7] 10 U.S.C. §1511.
[8] H.R. Rep. No. 104-450 (Committee of Conference), at 801, accompanying S. 1124, 104th Cong., 2d sess. (1996), and H.R. Rep. No. 104-406 (Committee of Conference), at 811, accompanying H.R. 1530, 104th Cong., 1st sess. (1995); cf. S. Rep. No. 104-112 (Committee on Armed Services), at 245, accompanying S. 1026, and H.R. Rep. No. 104 -131 (Committee on National Security), at 223–24, accompanying H.R. 1530, 104th Cong., 1st sess. (1995).

As previously indicated, persons covered by new Chapter 76 of Title 10, United States Code, include "[a]ny member of the Armed Forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for." [See 10 U.S.C. §1501(c)(1).] The status of any member falling within the above category is required to be determined by the Secretary of the member's departmental affiliation (the "Secretary concerned"). [See 10 U.S.C. §1503.] After reviewing preliminary recommendations submitted by field commanders, the Secretary concerned determines whether the member should be categorized as "missing," "deserted," "absent without leave," or "dead." [See 10 U.S.C. §1503(i)(3).] For the purpose of determining whether a given member should be categorized as a "missing person" or placed in one of the other categories, the term "missing person" is defined to include "a member of the Armed Forces on active duty who is in a missing status". [See 10 U.S.C. §1513(1)(A).] Section 1513(2) defines the term "missing status" to mean

> ... the status of a missing person who is determined to be absent in a category of any of the following:
>
> (A) Missing.
>
> (B) Missing in action.
>
> (C) Interned in a foreign country.
>
> (D) Captured.
>
> (E) Beleaguered.
>
> (F) Besieged.
>
> (G) Detained in a foreign country against that person's will.

Members who are not "involuntarily absent," or who become missing while not engaged in hostile action, or who become missing under circumstances not suggesting their absence is connected with hostile action, are not covered by Chapter 76 of Title 10, United States Code. Nor are members who become missing from service in inactive-duty training. Status determinations for these latter categories of persons are still made under Chapter 10 of Title 37, United States Code. Under Section 551(2) of Title 37, the term "missing status" is defined to mean

> ... the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—
>
> (A) missing;
>
> (B) missing in action;
>
> (C) interned in a foreign country;
>
> (D) captured, beleaguered, or besieged by a hostile force; or
>
> (E) detained in a foreign country against his will.

Under 37 U.S.C. §552(a)(1), a member of the uniformed services who is on active duty or performing inactive-duty training and who is categorized as being in a "missing status," no matter whether that status is determined under Chapter 76 of Title 10 or Chapter 10 of Title 37, is

> ... for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances ... to which he was entitled at the beginning of that period or may thereafter become entitled;

In the case of a member of the uniformed services who is determined to be in a missing status while performing full-time training duty or other full-time duty without pay, or inactive-duty training with or

without pay, the member

> ... is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay. [37 U.S.C. §552(a).]

In the case of a member performing full-time training duty or inactive-duty training, however, this rule applies only if the member

> ... is officially determined to be in a missing status that results from the performance of duties prescribed by competent authority. [37 U.S.C. §552(d).]

For members covered by Chapter 10 of Title 37, members determined to be in a missing status are continued in that status for 12 months unless a "finding of death" is made before. At the end of 12 months, the Secretary of the member's departmental affiliation is required to review the member's status. [See 37 U.S.C. §555(a)] Upon conclusion of that review, the Secretary in question may (i) continue the member in a missing status, "if the member can reasonably be presumed to be living" [see 37 U.S.C. §555(a)(1)], or (ii) "make a finding of death" [see 37 U.S.C. §555(a)(2)]. If the Secretary continues the member in a missing status, a later review may be made "when warranted by information received or other circumstances."[See 37 U.S.C. §555(a).] Upon completion of such a later review, the Secretary may either continue the member in a missing status or make a finding of death. If the Secretary concerned makes a finding of death with respect to a particular member, the finding is required to

> ... include the date death is presumed to have occurred for the purpose of—
>
> 1. ending the crediting of pay and allowances;
> 2. settlement of accounts; and
> 3. payment of death gratuities. [See 37 U.S.C. §555(b).]

Pursuant to the provisions of new 37 U.S.C. §555(d), as added by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §569(c)(1)(B), 110 Stat. 186, 351–52 (1996), the provisions of 37 U.S.C. §555(a)–(c) relating to Secretarial review of the status of members in a missing status for the purpose of declaring them dead is specifically provided not to apply to persons placed in a missing status pursuant to the provisions of Chapter 76 of Title 10, United States Code. This has the effect of prohibiting the Secretary of the department of a member placed in a missing status under Chapter 76 of Title 10, United States Code, from declaring the member dead under 37 U.S.C. §555, with the attendant result that the member's pay and allowances continue to be credited until the member is declared dead pursuant to the provisions of Chapter 76 of Title 10, United States Code. The pay and allowances entitlements of members determined to be dead under the provisions of Chapter 76 of Title 10, United States Code, are governed by Chapter 10 of Title 37, United States Code.

In the case of a member in a missing status, no matter whether determined under the provisions of Chapter 76 of Title 10 or Chapter 10 of Title 37, the Secretary concerned may order an allotment to the member's dependents of the pay and allowances with which the member is to be credited under 37 U.S.C. §552. [See 37 U.S.C. §553(e) and (h).] Persons in a missing status are granted an automatic extension of the time within which they would otherwise have to file a federal income tax return and pay federal income taxes. [See 37 U.S.C. §558.]

Prisoners of War (POWs)

Members of the armed forces of the United States who have been held as "prisoners of war" are, in addition to the pay and other benefits to which they may be entitled as persons in a "missing status,"[9] as set out above, also entitled to certain additional benefits under the provisions of 50 U.S.C. App. §2005. For the purposes of the provision in question, the term "prisoner of war" is defined generally to mean:

> ... any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date. [See 50 U.S.C. App. §2005(a) and (d)(1).]

Persons who qualify as "prisoners of war" under this definition are entitled to compensation at the rate of $1 per day for each day the government by which they were held "violat[ed] ... its obligation to furnish [them] the quantity of food to which [they] were entitled as ... prisoner[s] of war under the ... Geneva Convention...."[10] [See 50 U.S.C. App. §2005(b).] They are in addition independently entitled to compensation at the rate of $1.50 per day for each day the government by which they were held "violat[ed] ... such government's obligations under ... the Geneva Convention ... relating to labor of prisoners of war" [see 50 App. §2005(d)(2)(A) and (d)(3)(A)], or for each day they were subjected to "inhumane treatment"[11] by the government by which they were held [see 50 U.S.C. App. §2005(d)(2)(B) and (d)(3)(B)], subject to alimitation of $1.50 for any one day [see 50 U.S.C. App. §2005(d)(2)]. Persons entitled to such compensation include the actual prisoners of war themselves and, if they are dead, certain named beneficiaries. 50 U.S.C. App. §2005(c) and (d)(4). Although the United States has not been "at war" with any other nation since the end of World War II,[12] the subject law would be applicable to any persons taken prisoner of war in a war formally declared by Congress.

As set out above, the term "prisoner of war" was limited by definition to include only persons "held as ... prisoner[s] of war ... by any government of any nation with which the United States has been at war subsequent to" December 7, 1941. [See 50 U.S.C. App. §2005(a) and (d)(1)]. This definition necessarily excluded persons held captive during the "Korean War" [see 50 U.S.C. App. §2005(e) (catchline)], and the "Vietnam Conflict" [see 50 U.S.C. App. §2005(f)(1)(A)], since the United States was never officially "at war" in either case. For this reason, the "Korean War" gave rise to a change in the governing law relating to prisoners of war, effectively expanding the concept of prisoners of war to include persons held by a hostile force without respect to whether an "at war" determination had been made. Thus, the Act of August 21, 1954, ch. 784, Pub. L. No. 83-615, §2(b), 68 Stat. 759, 761–62 (1954), extended the application of the "prisoner of war" provisions of 50 U.S.C. App. §2005 to

> ... regularly appointed, enrolled, enlisted, or inducted member[s] of the Armed Forces of the United States who w[ere] held as ... prisoner[s] of war for any period of time subsequent to June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment [of this provision, August 21, 1954]. [See 50 U.S.C. App. §2005(e)(1).]

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[9] As indicated above, members of the uniformed services are placed in a "missing status" if they are "officially carried or determined to be absent in a status of ... interned in a foreign country; ... captured ... by a hostile force; or ... detained in a foreign country against [their] will." 37 U.S.C. §551(2)(C), (D), and (E). In addition to any special benefits to which members of the armed forces may be entitled as "prisoners of war" under 50 U.S.C. App. §2005, they are also entitled to the various benefits available to them as persons in a "missing status." See Chapter 10 of Title 37, United States Code, 37 U.S.C. §§551–559, generally. Also see discussion of "missing persons" in this appendix, above.

[10] For the text of the Geneva Convention of July 27, 1929, relative to the treatment of prisoners of war, see 47 Stat. 2021 (1932).

[11] The term "inhumane treatment" was itself defined as consisting of violations of various provisions of the Geneva Convention of July 27, 1929.

[12] Under the War Claims Act amendments of 1954, ch. 1162, Pub. L. No. 83-744, §102(c), 68 Stat. 1033, 1034 (1954), the deadline for filing claims for prisoner-of-war benefits with respect to World War II captivity was August 31, 1955.

Persons qualifying as "prisoner[s] of war" under this definition were given the same right to compensation, for the same violations of the Geneva Convention, at the same rates of compensation, and subject to the same overall daily limitation as was true of persons who qualified as "prisoner[s] of war" under 50 U.S.C. App. §2005(a) and (d)(1).[13] For the purposes of the "Korean War" provisions here in issue, the term "prisoner[s] of war" was later broadened to include both military and civilian personnel assigned to duty on the U.S.S. *Pueblo* who were captured on January 23, 1968, and were thereafter held prisoner by the government of North Korea for any period of time ending on or before December 23, 1968.[14]

The Act of June 24, 1970 (War Claims Act of 1948 Amendments), Pub. L. No. 91-289, §§1, 2, 84 Stat. 323, 323–24 (1970), further extended the application of the "prisoner of war" provisions of 50 U.S.C. App. §2005 to

> ... regularly appointed, enrolled, enlisted, or inducted member[s] of the Armed Forces of the United States who w[ere] held as ... prisoner[s] of war for any period of time during the Vietnam Conflict by any force hostile to the United States, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with, or in any manner served, such hostile force. [See 50 U.S.C. App. §2005(f)(1)(B).]

Persons qualifying as "prisoner[s] of war" under this definition were given the same right to compensation for the same violations of the Geneva Convention as was true of persons who qualified as "prisoner[s] of war" under 50 U.S.C. App. §2005(a) and (d)(1). The rates of compensation were, however, increased—to $2.00 per day for substandard food and $3.00 per day for labor and inhumane treatment violations of the Geneva Convention. The overall daily limitation on the amount of compensation that could be paid for labor and inhumane treatment violations of the Geneva Convention was also increased—to a maximum of $3.00 per day.[15]

Victims of Terrorism

Section 806 of the Victims of Terrorism Compensation Act, enacted as Title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, Pub. L. No. 99-399, §806, 100 Stat. 853, 884–87 (1986), added four special provisions to Titles 10 and 37, United States Code, establishing benefits for members of the uniformed services and their dependents who are victims of terrorism.[16] These provisions were added to cover persons taken

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[13] The deadline for filing claims by or with respect to Korean War prisoners under 50 U.S.C. App. §2005(e) was, in the general case, August 21, 1955. Act of August 21, 1954, ch. 784, Pub. L. No. 83-615, §2(b), 68 Stat. 759, 761–62 (1954). Persons who continued to be held as prisoners of war after the cessation of hostilities had one year after being "returned to the jurisdiction of the Armed Forces of the United States" within which to file claims. Claims filed with respect to prisoners of war subsequently determined to have "actually died or ... presumed to be dead" had to be filed within one year after the Department of Defense made its determination of death or presumption of death. See 50 U.S.C. App. §2005(e)(5)(A), (B), and (C).

[14] The deadline for filing claims with respect to the USS *Pueblo* was June 24, 1971. See, e.g., 50 U.S.C. App. §2005(e)(5)(D).

[15] The period for filing claims under the general provisions of 50 U.S.C. App. §2005(f) are set out at 50 U.S.C. App.§2005(f)(5). Each claim filed under this subsection must be filed not later than three years after whichever of the following dates last occurs:

(A) the date of enactment of this subsection [50 U.S.C. §2005(f), i.e., June 24, 1970];

(B) the date the prisoner of war for whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

the date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

[16] The Victims of Terrorism Compensation Act, Pub. L. No. 99-399, Title VIII, 100 Stat. 853 (1986), was modeled on the Hostage Relief Act of 1980, Pub. L. No. 96-449, 94 Stat. 1967 (1980), set out at 5 U.S.C. §5561 note (1988), which was in turn substantially derived from Vietnam-era legislation concerning persons missing in action and prisoners of war. The Hostage Relief Act of 1980, which was enacted in response to the takeover of the American Embassy in Teheran in 1979, was temporary legislation; the Victims of Terrorism Compensation Act, which was enacted in response to the hijacking of TWA Flight

captive in a non-belligerent status—basically, to cover persons who are victims of incidents of political warfare. The first of the four provisions, codified at 37 U.S.C. §559, provides for special compensation for members of the uniformed services held in a "captive status." For the purposes of 37 U.S.C.§559, the term "captive status" is defined to mean:

> ... a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after the date of enactment of the Victims of Terrorism Compensation Act, monetary payment in respect of such a period of captivity.[17] [See 37 U.S.C. §559(a)(1).]

The term "former captive" is defined to mean:

> ... a person who, as a member of the uniformed services, was held in a captive status. [See 37 U.S.C. §559(a)(2).]

With respect to the "compensation" authorized, Section 559(c)(1) of Title 37, United States Code, provides that the President

> ... shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

The amount of the payment is to be determined by the President in accordance with 5 U.S.C. §5569(d)(2).18 [See 37 U.S.C. §559(c)(2).] While the President is required by the Victims of Terrorism Compensation Act to make the payments specified, the President is permitted to defer the payment of such compensation to any former captive charged with a "captivity-related offense" pending resolution of such charges and, if the person is found guilty of such charges, to deny such compensation altogether.[19]

Section 806(b) of the Victims of Terrorism Compensation Act added Section 1032 to Chapter 53 of Title 10, United States Code. This provision permits the United States to

> ... pay compensation for the disability or death of a dependent of a member of the uniformed

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847 on June 14, 1985, and the subsequent murder in Beirut of an enlisted member of the Navy, is permanent legislation.

[17] Section 559 of Title 37, United States Code, as enacted by Section 806(a) of the Victims of Terrorism Compensation Act, Pub. L. No. 99-399, *id*., §806(a), 100 Stat. 884, is codified as a part of Chapter 10 of Title 37, which deals generally with "payments to missing persons". As indicated earlier in this appendix in the discussion of special benefits for "missing persons", the term "missing status" is defined at 37 U.S.C. §551(2). That definition is quoted above.

[18] Section 5569(d)(2) of Title 5, United States Code, which was itself enacted under Section 803(a) of the Victims of Terrorism Compensation Act, provides:

> Except as provided in section 802 of the Victims of Terrorism Compensation Act [dealing with compensation for persons held captive during the period November 4, 1979, through January 21, 1981, i.e., the period during which Americans were held captive at the American Embassy in Teheran], the amount of the payment under this subsection with respect to an individual held as a captive shall be not less than one-half the amount of the world-wide average per diem rate under section 5702 of [Title 5, United States Code] which was in effect for each day that individual was so held.

The Department of Defense Financial Management Regulation, Military Pay: Policy and Procedures for Active Duty and Reserve Pay, Volume 7A, ¶40601(b)(1), provides that "[f]or each day a member was held in a captive status, payment is 50 percent of the world-wide average per diem rate which was in effect for each day the member was held in a captive status," but ¶40601(b)(2) provides that "[f]ormer captives may receive more than the 50 percent rate when specifically approved by the SECDEF."

[19] In addition to the "compensation" authorized to be paid to members of the uniformed services held in a captive status, another provision directs the Secretary of the Treasury to establish a special "saving fund" to which the pay and allowances of captives may be allotted by the "Secretary concerned." Any amounts so allotted bear interest, compounded quarterly, equal to the average rate paid on U.S. Treasury bills with 3-month maturities issued during the preceding calendar quarter. See 37 U.S.C. §559(b).

services if the President determines that the disability or death—

(1) was caused by hostile action; and

(2) was a result of the relationship of the dependent to the member of the uniformed services.

The "compensation" provided for, and the amount thereof, is to be determined in accordance with regulations required to be prescribed by the President.

Section 806(c) of the Victims of Terrorism Compensation Act added Section 1095a to Chapter 55 of Title 10, United States Code. The provision in question provides for the payment, "by advancement or reimbursement," for health care and related expenses of members of the uniformed services and their dependents "to the extent that such care ... is incident to the captive status" and is not otherwise covered by government health or medical programs or by insurance.

Finally, Section 806(d) of the Victims of Terrorism Compensation Act added Chapter 110 to Part III of Title 10, United States Code, concerning educational benefits for members of the uniformed services held as captives and their dependents.[2020] Under the provisions in question, codified at 10 U.S.C. §§2181–2185, members of the uniformed services who are held as captives and their dependents may be paid, "by advancement or reimbursement," various specified educational expenses. Payments may be made to "former captives" for up to 10 years following the date on which "the status of that person as a captive terminates," although payments are permitted "only to the extent ... not otherwise authorized by law." [See 10 U.S.C. §2183.] Payments may be made to the dependents of a person in a "captive status" after that person has been in such a status for 90 days and may continue for a limited period after "the captive status of that person terminates," provided that the dependents are not otherwise eligible for educational assistance under other provisions of law. [See 10 U.S.C. §2182.]

[20] The educational benefits of the Victims of Terrorism Compensation Act derive substantially from Vietnam-era educational benefits.

Appendix VIII
Special Benefits Applicable to Certain Members of the Armed Forces Assigned to the National Security Agency, the Central Intelligence Agency, and the Defense Intelligence Agency

Legal Authority: 37 U.S.C. §431; Section 4 of the Central Intelligence Agency Act of 1949, ch. 227, Pub. L. No. 81-110, §5, 63 Stat. 208, 209–11 (1949), as amended (50 U.S.C. §403e); Section 9 of the Act of May 29, 1959 (National Security Agency Act of 1959), Pub. L. No. 86-36, §9, 73 Stat. 63 (1959), as amended by the Intelligence Authorization Act for Fiscal Year 1981, Pub. L. No. 96-450, §402, 94 Stat. 1975, 1977– 1978 (1980) (50 U.S.C. §402 note).

Background: The military compensation and benefits system detailed in Chapters I through V.C.9 of this volume, above, is the compensation and benefits system for the vast majority—well over 99 percent—of all members of the armed forces. For this 99+ percent of all members of the armed forces, the compensation and benefits system detailed above is both comprehensive and all-encompassing—in the sense that it establishes the outer boundaries within which members of the armed forces are paid and receive benefits in return for their services. The fact is, however, that some members are, under specific conditions, eligible for additional, or alternative, benefits. One such group consists of prisoners of war (POWs), persons who are in a "missing status," and victims of terrorism. The special compensation and benefits available to this group of persons is dependent upon a specific, involuntary status such persons have, as detailed in Appendix VII, above. Another category of persons for whom special compensation and related benefits have been authorized includes military personnel assigned to intelligence activities of one sort or another—including the Central Intelligence Agency, the National Security Agency, the Defense Attaché System, and the Defense Intelligence Agency. This category of "intelligence personnel" is distinguished from the category that includes persons in a "missing status," POWs, and victims of terrorism on the grounds, among others, that the status of "intelligence personnel" is not involuntary. The present appendix summarizes the benefits available to affected personnel and the conditions of entitlement.

Sections 501 and 601 of the Intelligence Authorization Act for Fiscal Year 1982, Pub. L. No. 97-89, §§501 and 601, 95 Stat. 1150, 1152–1154 (1981), authorized the payment of certain "allowances and benefits" to members of the armed forces "detailed or assigned" to the Central Intelligence Agency and the National Security Agency, respectively. Section 501 of the 1982 Intelligence Authorization Act, *id*., amended Section 4 of the Central Intelligence Agency Act of 1949, ch. 227, Pub. L. No. 81-110, §5, 63 Stat. 208, 209– 11 (1949) (classified to 50 U.S.C. §403e), by adding a new subsection (b), to provide that members of the Armed Forces "detailed or assigned" to the Central Intelligence Agency could be paid "allowances and benefits comparable to the allowances and benefits authorized to be paid to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980, Pub. L. No. 96-465, §§901–905, 94 Stat. 2071, 2124–2128 (1980) (22 U.S.C. §4081 *et seq*.), or any other provision of law." Under this authority, the Director of Central Intelligence

> ... may pay allowances and benefits related to officially authorized travel, personnel and physical security activities, operational activities, and cover-related activities ... when payment of such allowances and benefits is necessary to meet the special requirements of work related to such activities.

The rates at which such allowances and benefits may be paid are limited by the rates authorized by 5 U.S.C. §§ 5724 and 5724a when "relocation [is] attributable, in whole or in part, to relocation within the United States." Section 601 of the 1982 Intelligence Authorization Act, on the other hand, amended subsection (b)(1) of Section 9 of the National Security Agency Act of 1959 (50 U.S.C. §402 note) to provide that members of the armed forces "detailed or assigned" to the National Security Agency could be paid

(1) allowances and benefits—

(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law; and

(B) in the case of selected personnel serving in circumstances similar to those in which personnel in the Central Intelligence Agency serve, comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency.

With respect to the "allowances and benefits" that may be paid to members of the armed forces under 50 U.S.C. §§403e and 402 note, as amended, a special limitation prohibits members of the armed forces from receiving, at the same time, "allowances and benefits" both under these provisions and also under comparable provisions of Title 37, United States Code. Sections 4081–4086 of Title 22, United States Code, in turn detail the various "travel, leave, and other benefits" that the Secretary of State may authorize for members of the Foreign Service and their families—which benefits are, by virtue of the 1982 Intelligence Authorization Act, available to members of the armed forces "detailed or assigned" to the Central Intelligence Agency or the National Security Agency.[1]

Section 501 of the Intelligence Authorization Act for Fiscal Year 1984, Pub. L. No. 98-215, §501(a), 97 Stat. 1473, 1478–1479 (1983), also extended certain of these benefits to personnel assigned to the Defense Intelligence Agency. Under the subject provision, which was originally codified at Section 192 of Title 10, United States Code, but which has since been amended and recodified at Section 431 of Title 37, United States Code, the Secretary of Defense was authorized to

> ... provide to members of the Armed Forces who are assigned to Defense Attache Offices and Defense Intelligence Agency Liaison Offices outside the United States and who are designated by the Secretary of Defense for the purposes of this [provision] allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5 [United States Code].

Benefits covered include, among others, home visitation between consecutive foreign tours, travel and related expenses of family members accompanying, preceding, or following a member on temporary duty assignments; environmental and morale leave; child care expenses associated with spouses' intelligence training precedent to overseas duty assignments of DIA personnel. The stated reason for the adoption of such benefits was to "bring the attaché system in line with other intelligence personnel overseas who may receive similar allowances under existing law."[2]

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[1] See, e.g., S. Rep. No. 97-57 (Select Committee on Intelligence), at 6–7 and 10, accompanying S. 1127, and H.R. Rep. No. 97-332 (Committee of Conference), at 17–19, accompanying H.R. 3454, 97th Cong., 1st sess. (1981), for a discussion of the reasons underlying adoption of these provisions. In essence, the provisions were adopted to compensate "intelligence personnel" for the "frequent moves between major metropolitan centers" such personnel were required to undertake because of "career development" and to limit adverse effects on "morale and efficiency of significant numbers of intelligence personnel" due to such moves and the attendant "price of considerable personal loss" such personnel had theretofore been personally required to bear. See H.R. Rep. No. 97-332, *id*., at 18. No particular attention was given to the extension of these special benefits to members of the armed forces.

[2] S. Rep No. 98-77 (Select Committee on Intelligence), at 7–8, accompanying S.1230, 98th Cong., 1st sess. (1893).

Appendix IX
Death Benefits Payable to Survivors of Military Decedents

Background: Various questions arise concerning the death benefits payable to survivors of members of the armed forces who die on active duty. First, there is the question of what benefits exist; second, the amount of the benefit payable in each individual case; and third, when and under what circumstances the benefit is payable in each individual case. This appendix is intended to provide a bare-bones listing or catalogue of the individual benefits payable to survivors of active-duty military decedents. For greater detail on the amount of certain benefits payable under a specific heading, when those benefits are payable, and the reasons underlying the existence of the benefits in the first instance, the reader is referred to those chapters in this volume dealing with the individual benefit in question.

Death Gratuity: A $100,000 death gratuity is intended to provide immediate cash to meet the needs of survivors. In general, the death gratuity is payable immediately upon the death of a member of the armed forces. Legislative authority: 10 U.S.C. §§1475-1480. See Chapter III.D.3., hereof, "Death Gratuity," above.

Continued Government Housing or an Allowance in Lieu Thereof: Survivors are provided rent-free government housing for 180 days after the death of a member or a tax-free housing allowance for that portion of the 180-day period when not in government housing, with the amount of the allowance based on the member's grade at the time of death. Legislative authority: 37 U.S.C. §403(l).

Burial Costs: The government reimburses up to $10,500 of expenses for the member's burial if the member's death is service-connected, and provides travel for next-of-kin under invitational travel orders. Legislative authority: 10 U.S.C. §1482 and 38 U.S.C. §§2301–2308; *cf*. ASD (FM&P) Memorandum dated March 21, 1991.

Unused Leave: Survivors of a deceased member are entitled to payment for the decedent's unused accrued leave, if any. The amount of the payment is based only on the member's basic pay at the time of death. Legislative authority: 37 U.S.C. §501. See Chapter IV.B.1., hereof, "Annual Leave/Accrued Leave Payments/Leave Lost," above.

Servicemembers' Group Life Insurance (SGLI): Service members may elect insurance coverage in multiples of $50,000 up to a maximum coverage of $400,000 under the Servicemembers' Group Life Insurance program, or SGLI. The program also provides up to $100,000 of coverage for spouses of members and $10,000 of coverage per dependent child. SGLI is a government-sponsored group life insurance program that provides insurance coverage to members of the armed forces at rates often lower than those available, given the added risk involved in insuring members of the armed forces, under normal commercial insurance policies. SGLI has one affordable insurance rate for all members of the armed forces. The government pays the portion of SGLI premium costs that exceeds premiums that would be payable for group life insurance for persons not subject to the special risks involved in military service. Legislative authority: 38 U.S.C. §§1965-1980A. See Chapter III.D.2., hereof, "Servicemembers' Group Life Insurance/Veterans' Group Life Insurance," above.

Dependency and Indemnity Compensation (DIC): The Department of Veterans Affairs pays a tax-free monthly annuity to an un-remarried surviving spouse of a service member who dies from a service-connected disability. The basic spousal DIC is currently $1,254 per month. An additional $311 per month is payable for each dependent child of the deceased member under the age of 18.[1] Additional amounts are authorized for specific purposes. Legislative authority: 38 U.S.C. §§1301–1323. See Chapter III.D.4., hereof, "Dependency and Indemnity Compensation," above.

[1] Rates used are for 2015–16 from U.S. Department of Veterans Affairs, "Dependency and Indemnity Compensation - Effective 12/1/14," https://benefits.va.gov/COMPENSATION/rates_DIC_pen14.asp.

Survivor Benefit Plan (SBP): Surviving spouses and/or children of members may be entitled to monthly annuity payments under the Survivor Benefit Plan. The amount of the annuity for a surviving spouse 55 percent of the retired or retainer pay the member would have been entitled to receive if the member were retired on the date of death with a total disability. The amount of an SBP annuity payable to a surviving spouse is reduced by the amount of DIC, if any, the spouse receives on account of the member's death. A surviving spouse who remarries before reaching age 55 loses entitlement to SBP, although SBP is reinstated if the remarriage ends in death or divorce. Children may receive the SBP benefit instead of the surviving spouse in order to allow the benefit to be received without the DIC reduction. Legislative authority: 10 U.S.C. §§1447-1455. See Chapter IV.C.2., hereof, "Survivor Benefit Plan," above.

Social Security: Social Security death benefits are payable on behalf of a "currently insured" deceased member to a surviving spouse caring for the deceased member's dependent children under age 16 and to eligible minor children of the deceased member. Social Security old-age survivor benefits are payable on behalf of a "fully insured" deceased member to a surviving spouse at least 60 years old. The amount of an old-age survivor benefit is a percentage of a deceased member's primary insurance amount, and depends on the age of the survivor at the time of applying for a Social Security old-age survivor benefit. See Chapter IV.C.1. above, "Government Contribution to Social Security," above.

Health Care: A surviving spouse less than 65 years old and the minor dependents of a deceased member are eligible for space-available medical care at military medical facilities or are otherwise covered by TRICARE. A surviving spouse 65 years old or older is eligible for space-available medical care at military medical facilities or is otherwise covered by Medicare. Legislative authority: 10 U.S.C. Chapter 55.

Commissary and Exchange Privileges: The unmarried surviving spouse and qualified dependents of a deceased member are eligible to shop at military commissaries and exchanges. Legal authority: DoD Directive 1330.17, "Armed Services Commissary Regulations," and DoD Directive 1330.9, "Armed Services Exchange Regulations."

Tax Benefits: The next-of-kin of a deceased service member whose death occurs overseas in a terrorist or military action is exempt from paying federal income tax on income received by the decedent during at least the year of the decedent's death. Legislative authority: Internal Revenue Code, Section 692, 26 U.S.C. §692. Benefits received by a survivor of a deceased member from the Department of Veterans Affairs are exempt from levy by the United States or any agency or instrumentality thereof with respect to any indebtedness the decedent may have had to the United States. Legislative authority: 38 U.S.C. §5301.

Appendix X
CHAMPUS and TRICARE

Note: Resource constraints led to the decision not to update all of the health sections in this eighth edition of Military Compensation Background Papers. This chapter has not been updated since 2008.

Purpose: To provide contractual civilian medical care to eligible beneficiaries when the required care cannot be provided by the direct-care system, through sharing the cost of medically necessary civilian health care for the dependents of active-duty service members, retired members of the uniformed services and their dependents, surviving family members of deceased active or retired members, and eligible former spouses of members.

Background: Early in the history of the United States, it was understood that, in order to have a healthy fighting force capable of meeting the nation's military needs, it would be necessary to provide for the medical care of members of the armed forces. Because of the remoteness of many of the nation's military outposts, it was soon determined that each of the nation's military organizations—the Army and Navy at the time—should have its own medical department. Accordingly, the Act of March 2, 1799, ch. 27, §6, 1 Stat. 721, 722 (1799), authorized medical departments for the Army and Navy and provided for the "compensations" of members of those departments as well as additional "compensation for forage, rations, and ... expenses."

The primary mission of the medical departments of the Army and Navy was to provide medical care to active-duty personnel, but over time, as more and more of those personnel came to have dependents, medical care was also provided to dependents, mainly on a "space-available" basis. When military personnel were given retirement rights, it always was understood that they might be recalled to active duty in time of national need, and it was determined that military retirees should be given medical care so that they would be available as force augmentees if needed. Retirees were in fact members, even if not on active duty, and both they and their dependents received medical care from military medical facilities on a "space-available" basis.

After World War II, and especially after the Korean War, when national policy dictated a large standing force capable of quick and effective deployment to any of the "Cold War" hotspots around the world, the active-duty dependent and retiree communities grew rapidly, and the medical care provided through military medical facilities to dependents and retirees (and their dependents) came to be rationed. Indeed, it was during this time that the "space-available" nature of military medical care for dependents and retirees came to be fully understood. Many retirees in fact were forced to seek medical care in the civilian economy, as they had in World War II and the Korean War, and, at least until they became eligible for Medicare after 1966, had to pay for such care on their own. Dependents of active-duty members, on the other hand, while given a higher priority than some retirees, also had their medical care needs rationed.

Because of the adverse effects on morale occasioned by the rationing of medical care provided through military medical facilities to active-duty dependents and retirees (and their dependents), Congress determined to provide alternative sources of medical care to those communities, so that, if their medical care needs could not in fact be met through the "space-available" military medical facilities, they would nevertheless get needed care. The system through which this care is provided initially was referred to as the Civilian Health and Medical Program of the Uniformed Services, or CHAMPUS. As one of the fastest growing parts of the military manpower budget, CHAMPUS and its successor program TRICARE has been of great concern to Congress and to the Department of Defense. The remainder of this appendix sets out the legislative background leading up to CHAMPUS and describes the current administration of the TRICARE program.

Legislative Background and Administration: The Dependents Medical Care Act of June 7, 1956, Pub. L. No. 84-569, 70 Stat. 250 (1956), gave military retirees and their dependents the right to care in

military medical facilities based on the "availability of space and facilities and the capabilities of the medical and dental staff." It also gave the Secretary of Defense the authority to contract with civilian sources for the medical care of spouses and children of active-duty members of the uniformed services, but not for retirees and their dependents.

In recognition that the demand for military medical care was exceeding the capabilities of the services in general, in 1966 Congress, following passage of Medicare legislation, amended the provisions of Title 10 dealing with health care for members, former members, and their dependents and survivors, creating authority to contract for the provision of civilian health care to retired members and their dependents under age 65, as well as the survivors of certain former members, among others. The Department of Defense subsequently exercised this authority through creation of a program that was adopted as part of the Military Medical Benefits Amendments of 1966, Pub. L. No. 89-614, 80 Stat. 863 (1966), and which came to be known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

The principal features of the CHAMPUS legislation, which used the Blue Cross-Blue Shield High Option Plan of the Federal Employees Health Benefits Program as a model, established partial government payment for new and expanded inpatient and outpatient care provided by civilian sources to designated beneficiaries. The benefits payable under CHAMPUS were not quite as extensive as those authorized in military medical facilities, and some beneficiaries eligible for care in military facilities—notably those over 65 years of age—were not eligible for care under CHAMPUS. Those with only military facility eligibility were primarily retirees and their dependents and the dependents of deceased members and former members who by law lose their eligibility for CHAMPUS upon becoming entitled to Medicare because of age or disability.[1] The eligibility of parents and parents-in-law of active and retired service members also is limited to military facilities.

Among the differences between CHAMPUS and the Federal Employees Health Benefits Program were that civilians had to pay a part of the monthly premium but could choose from a variety of plans with different annual benefit structures, while CHAMPUS-eligible individuals did not have to pay a premium but also had no choice among a variety of plans. CHAMPUS and its successor program, TRICARE Standard, also differ from federal employees' plans in that, under CHAMPUS AND TRICARE Standard, beneficiaries generally are required to obtain non-emergency inpatient care from nearby military medical facilities if such care is available there. Thus, CHAMPUS and TRICARE Standard have provided only a part of the medical care that their beneficiaries receive. For that reason, those programs are not directly comparable to the various plans available to participants in the Federal Employees Health Benefits Program, which provide for complete medical care to beneficiaries.

The annual National Defense Authorization Acts from 1991 to 1996 mandated a variety of changes to the CHAMPUS program and the TRICARE programs that succeeded it:

A. The annual outpatient deductible increased to $150 (individual) and $300 (family) for most eligible beneficiaries effective with care provided on and after April 1, 1991. The dependents of active-duty members in grades E-4 and below were exempt from the increase and continued to be liable for an annual individual deductible of $50 and family deductible of $100 for outpatient care. These rates remained in effect in the TRICARE Standard and Extra programs through 2009; the TRICARE Prime program, in which all active-duty personnel are automatically enrolled, has no deductible if care is received from a military facility or from the preferred network of outside providers. (See below for a discussion of the TRICARE program.)

B. The annual limits on inpatient mental health care, subject to waivers, changed from 60 days per calendar year, effective February 15, 1991, to:

[1] See footnote 1 to Chapter III.D.1. hereof, "Retired Members Medical Care," above.

(1) 30 days in any year for patients aged 19 or older;

(2) 45 days in any year for patients under 19;

(3) 150 days in any year for inpatient mental health services provided by residential treatment centers. Previously, there was no limit on such care.

C. A broadened benefit for pap smears and mammograms, allowing cost-sharing for such services obtained as diagnostic or preventive health care measures.

D. "Transitional" health care (60 or 120 days of eligibility for CHAMPUS benefits and care at military medical facilities, depending on length of active service) were offered to service members (and their families) who were involuntarily separated from active duty during a nine-year period beginning October 1, 1990. Involuntarily separated service members also could buy a "conversion" health care policy after leaving active duty when they still retain CHAMPUS eligibility. If such a policy was purchased, these families received separate benefits in military medical facilities and under CHAMPUS for one year from the starting date of the conversion policy for any preexisting conditions (including pregnancy) that were not covered by the policy. The National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §4408, 106 Stat. 2315, 2708–2712 (1992), extended the same "transitional" health care benefits to otherwise qualified service members who agree to voluntarily separate from active duty under any of the voluntary separation incentive programs. This provision remained in effect as of 2004. See 10 U.S.C. §1078a as added by Section 4408 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, *id.*

The most recent transitional health-care program provides slightly different benefits to members and the families of members who have been involuntarily separated from active duty on or after January 1, 2002, and to members and the families of members who have been separated from active duty but retained involuntarily in support of a contingency operation. Transitional health care is available for 180 days from the date of separation. The conversion policy that is available for purchase extends for 18 months instead of one year. The program also applies to reserve members who have been separated from active duty then called up to serve in a contingency operation for a period of more than 30 days.

By law, CHAMPUS shared the cost of covered civilian inpatient and outpatient health care for eligible persons. The dependents of active-duty members in pay grades E-4 and below had an outpatient care deductible in each fiscal year of $50 per person with a $100 family limit. The outpatient care deductible each fiscal year for all others was $150 per person with a $300 family limit. These limits remained under the TRICARE programs. After the deductible was met, CHAMPUS paid 80 percent of allowable outpatient costs for dependents of active-duty members and 75 percent of the allowable cost for all others. Under TRICARE Prime, Extra, and Standard, the respective outpatient cost coverages are 100 percent, 85 percent, and 80 percent. For covered inpatient care under CHAMPUS, active-duty dependents paid a nominal daily fee ($9.30 in FY 1994) or a total of $25, whichever was greater. TRICARE Prime charges nothing for such care, while TRICARE Extra and Standard both charge $13.90 per day or $25, whichever is greater. All other CHAMPUS patients—i.e., retirees, their families, survivors, and eligible former spouses—paid a fixed daily rate ($271 in FY 1994), or 25 percent of billed charges, whichever was less, in hospitals that fell under the diagnosis-related group (DRG) payment system. In DRG-exempt facilities, they paid 25 percent of the CHAMPUS-determined allowable charge. CHAMPUS paid the remaining allowable charges. Under TRICARE Extra, individuals in those categories pay the lesser of $250 per day or 25 percent of negotiated charges plus 20 percent of negotiated professional fees, and under TRICARE Standard the inpatient charges are the lesser of $512 per day or 25 percent of billed charges plus 25 percent of allowed professional fees. Under TRICARE Prime, the inpatient charges are $11 per day, with a $25 minimum per admission.

Beginning October 1, 1987, all CHAMPUS-eligible families were protected from catastrophic civilian medical expenses by a $1,000 (active-duty families only) or $7,500 (all other families) "cap" on

the amount of money required to meet the family's annual deductibles and cost-shares based on CHAMPUS allowable charges for covered medical care received in any one fiscal year. The TRICARE Extra and Standard programs provide a cap on catastrophic expenses of $1,000 per year spent by the entire family of active-duty members on TRICARE-covered services and a cap of $3,000 per year for other beneficiaries. The cap does not apply to medical services not covered by TRICARE. The cap for members in TRICARE Prime also is $1,000 per year.

The 1966 legislation also established the CHAMPUS Program for the Handicapped (PFTH), a specialized program of assistance for active-duty members with spouses or children who are moderately or severely mentally retarded or seriously physically handicapped. PFTH has no known counterpart in other federal or civilian health care plans. In 1971 eligibility for PFTH, which is now known as the Extended Care Health Option (ECHO), was extended to dependents of active-duty members who died while eligible for hostile-fire pay (formerly known as combat pay), or who died from a disease or injury incurred while eligible for such pay.

CHAMPUS benefits unique to dependents of active-duty members, in addition to the Program for the Handicapped, include an annual eye examination. Otherwise, the benefits for all eligible persons are the same.

The legislation allowed only extremely limited dental care under CHAMPUS: only that care necessary as an adjunct to covered medical or surgical treatment of other than a dental condition. Since "space-available" dental care for active-duty families was only available under limited conditions at military facilities, in 1985 the Congress authorized a voluntary-enrollment basic dental benefit for dependents of active-duty members, with enrollees sharing in the costs of monthly premiums through payroll deductions. This dental benefit, provided for in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 651, 99 Stat. 655–56 (1985), is not part of CHAMPUS, but is administered by a contractor. The current dental program is known as TRICARE Dental Program (United Concordia). United Concordia pays a percentage of the dentist's charge for a covered service (a cost share). TDP provides 100 percent coverage for diagnostic, emergency, or preventive services, except sealants. The program is still voluntary. Retirees may enroll in a premium-based program.

In an attempt to improve the quality of health care for service families while at the same time controlling health care program costs, Congress, in the Department of Defense Authorization Act, 1987, Pub. L. No. 99-661, §701–702, 100 Stat. 3894–3900 (1986), supported Department of Defense initiatives to change the CHAMPUS program by enactment of a number of new provisions to Chapter 55 of Title 10, U.S. Code.

First, Section 702 of the 1987 Authorization Act required the Secretary of Defense, as part of the CHAMPUS Reform Initiative, to conduct a demonstration project to test the relative merits of providing alternative methods of obtaining health care for service families, besides the standard CHAMPUS program. The CHAMPUS Reform Initiative began August 1, 1988, in California and Hawaii and continued in 1994 under the administration of the original contractor, who was selected through a competitive-bidding contract award process.

Second, the act permitted the Secretary of Defense to contract with a variety of health-care providers and insurers for the provision of basic health-care services. Included within the scope of permitted contractors were health-maintenance organizations, preferred-provider organizations, individual providers, individual medical facilities, insurers, and consortiums of all such providers, facilities, and insurers. In addition, the act specifically authorized the Secretary of Defense to prescribe premiums, deductible amounts, copayment percentages or amounts, and other health-care charges for affected beneficiaries.

Third, while authorizing the Secretary of Defense to prescribe premiums, deductibles, copayments and the like, the act also specifically authorized the Secretary to waive beneficiary financial liabilities. The Secretary may waive such payments, or may waive limitations on the kinds of health-care services that may

be provided as an inducement to beneficiaries of the military health-care system to enroll in alternative health-care programs that offer equal or better services, at equal or lower cost.

Fourth, the 1987 Authorization Act required the Secretary of Defense to establish a health-care enrollment system for beneficiaries of the military health-care program. Under the enrollment system, beneficiaries would be permitted to choose a health-care plan from a number of alternative plans designated by the Secretary of Defense. Eligible plans would include uniformed services medical facilities, CHAMPUS providers, all health-care plans contracted for by the Secretary of Defense, or any combination of such plans. Freedom to choose from among available plans could be limited out of necessity to assign beneficiaries to uniformed services medical facilities in order to assure their full use in a given area.

In 1994 the Department of Defense embarked on a new program, known as TRICARE, to improve the quality, cost, and accessibility of services for its beneficiaries. Because of the size and complexity of the military health services system (MHSS), TRICARE implementation was phased in over a period of several years. The principal mechanisms for the implementation of TRICARE were the designation of the commanders of selected military medical treatment facilities (MTFs) as lead agents for 12 TRICARE regions across the country, operational enhancements to the MHSS, and the procurement of managed-care support contracts for the provision of civilian health-care services within those regions. The first region, including Alaska, Oregon, and Washington, went into operation in 1995; the twelfth and final region, the Northeastern United States, went into operation in 1998. When the TRICARE regional programs were completed in 1998, all military hospitals and clinics in the United States had become part of the program coverage.

Some of the fundamental rules and standards of the CHAMPUS system, such as deductible amounts and eligibility standards, remain in the basic structure of TRICARE. Many other elements have changed since 1994. A major feature of TRICARE is the establishment of a triple-option benefit. CHAMPUS-eligible beneficiaries are offered three options: they may elect to receive health care through (1) an HMO-type program called TRICARE Prime, (2) the preferred-provider network on a case-by-case basis under TRICARE Extra, or (3) non-network providers under TRICARE Standard. (TRICARE Standard is the same as standard CHAMPUS.) Active-duty members are automatically enrolled in TRICARE Prime; unless they enroll specifically in another program, dependents are automatically covered by TRICARE Standard. Enrollees in TRICARE Prime obtain most of their care within the network and pay substantially reduced cost shares when they receive care from civilian network providers. Enrollees in TRICARE Prime retain freedom to use non-network civilian providers, but they have to pay cost sharing considerably higher than TRICARE Standard if they do so. Under most circumstances, beneficiaries who choose not to enroll in TRICARE Prime preserve their freedom of choice of provider by remaining in TRICARE Standard. These beneficiaries face standard CHAMPUS cost-sharing requirements, except that their coinsurance percentage is lower when they opt to use the preferred-provider network under TRICARE Extra. All beneficiaries continue to be eligible to receive care in MTFs, but active-duty family members who enroll in TRICARE Prime have priority over all other beneficiaries.

Effective September 1, 2002, the TRICARE Prime program added a “remote” health coverage for members and their dependents who are serving in the United States 50 miles or farther from the nearest military treatment facility. This coverage is available to active-duty personnel and their dependents and to reserve personnel and their dependents if the reservist is activated for more than 30 consecutive days. The TRICARE for Life (TFL) program, which was introduced in all regions during 2004, combines TRICARE and Medicare coverage for Medicare-eligible military retirees and dependents. Under TFL, TRICARE generally acts as the second payer for expenses covered by both programs, covering deductibles and certain other expenses not covered by Medicare. However, if the individual also carries a private insurance policy, Medicare is the first payer, the private insurance is the second, and TFL pays whatever expenses remain. If hospitalization exceeds 150 days, TRICARE becomes the primary payer. TFL also provides a $3,000 cap on catastrophic expenses.

TRICARE Prime incorporates the "Uniform HMO Benefit Option", which was mandated by Section 731 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, §731, 107 Stat. 1547, 1696 (1993). It required the establishment of a Uniform HMO Benefit Option, which was required "to the maximum extent practicable" to be included "in all future managed health care initiatives undertaken by" the Department of Defense. This option is to provide "reduced out-of-pocket costs and a benefit structure that is as uniform as possible throughout the United States." The 1994 Authorization Act further requires a determination that, in the managed-care initiative that includes the Uniform HMO Benefit Option, Department of Defense costs are to be "no greater than the costs that would otherwise be incurred to provide health care to the covered beneficiaries who enroll in the option".

In addition to this provision of the 1994 Authorization Act, a similar requirement was established by Section 8025 of the Department of Defense Appropriations Act, 1994, Pub. L. No. 103-139, §8025, 107 Stat. 1418, 1443–1444 (1993). As part of an initiative "to implement a nationwide managed health care program for the MHSS", the Department of Defense was required to establish "a uniform, stabilized benefit structure characterized by a triple option health benefit feature". The Uniform HMO Benefit also implements this requirement of law. It offers reduced cost sharing to CHAMPUS-eligible beneficiaries who enroll in TRICARE Prime.

Appendix XI
Manpower-Related Mobilization Actions to be Taken by the Department of Defense

Background: Operation Iraqi Freedom, which began in 2003, required a mobilization of the nation's military manpower, both active-duty and reserve forces personnel. During and preceding the process, questions arose as to manpower-related actions necessary to support such a full-scale mobilization. Some of the actions were directly compensation-related; others, having less to do with compensation, were merely manpower-related. This appendix summarizes the range of manpower-related actions the Department of Defense must take in the event of a future mobilization.

For the purposes of the following listing of manpower-related actions to be taken by the Department of Defense in support of a mobilization of the nation's military manpower, it is assumed that a declaration of war has been made by the Congress or a declaration of national emergency has been proclaimed by the President.

* **Prehostility Actions**
  * Call-up of reserve forces by the President. Authority/Reference: 10 U.S.C. 12304; see 10 U.S.C. §§12301, 12302, and 12303.
  * Stop Loss Action Initiated by the Military Departments. Authority/Reference: 10 U.S.C. §12305.
  * Designation by the Secretary of Defense of area or areas for imminent danger pay. Authority/reference: 37 U.S.C. §310(a).
  * Evacuate noncombatants and ensure that other noncombatants do not enter area of hostilities. Requires coordination between the State Department and the Joint Chiefs of Staff. Authority/reference: Executive Order 12656; Joint Federal Travel Regulations, Volumes I and II; Department of Defense Directives 3025.14 and 1400.11; 5 U.S.C. §5522a and 37 U.S.C. §405(a).
  * Review manpower policies and personnel management actions necessary to support hostilities, with particular emphasis on:
    - Manpower Acquisition Process;
    - Force Quality Parameters;
    - Partial Mobilization;
    - Full Mobilization.
  * Establish policies for treatment of U.S. prisoners of war with respect to pays and allowances, treatment, and repatriation.
  * Establish policies for treatment of enemy prisoners of war.
  * Preliminary planning for mobilization of the civilian work force. Authority/ Reference: Department of Defense Directive 1400.31 and Instruction 1400.32.
  * Obtain inventory of personnel able to understand the language spoken in the area of hostilities. Request language inventory survey from military services, including reserves.
  * Project casualties and replacement requirements. Coordinate with Joint Chiefs of Staff.

* **Hostilities**
  * Declaration of a combat zone by presidential executive order. Implications for tax exemptions for participants in hostilities. Authority/reference: Internal Revenue Code, §112, 26 U.S.C. §112.
  * Obtain presidential executive order mobilizing Commissioned Corps of the United States Public Health Service as a branch of the land or naval forces. Authority/reference: 42 U.S.C. §217.
  * Evaluate current Military Personnel Authorization (MPA) for possible funding shortfall and coordinate with DoD Comptroller to obtain adequate funds; prepare legislation and backup information for submission to Congress as necessary. Authority/reference: 41 U.S.C. §3732 (Food and Forage Act).
  * Suspend promotion laws, authorize temporary appointments, and waive ceilings on the number of general and flag officers by presidential executive order. Authority/reference: 10 U.S.C. §§527, 644, 688c, and 12305.
  * Review memorandum of understanding with Selective Service System and consider advisability of resuming draft. Prepare legislation to allow conscription if deemed necessary for manpower requirements. Authority/reference: 50 U.S.C. §467c.
  * Consider induction of health-care personnel.
  * Increase supply of military manpower by accelerating entry date of members in the Delayed Entry Program. Authority/reference: 10 U.S.C. §12303.
  * Expand services training bases to meet surge requirements and take action necessary to obtain needed funding.
  * Reduce length of instruction in officer commissioning programs to increase officer flow.
  * Enhance manpower production capacity by preparing and submitting draft legislation to waive Occupational Safety and Health (OSHA) standards. Authority/reference: 29 U.S.C. §651.
  * Review and implement tax-exempt savings programs for members in designated combat exclusion zones, if desired. Authority/reference: 10 U.S.C. §1035.
  * Transfer Coast Guard or portions thereof to jurisdiction of the Navy pursuant to presidential executive order. Authority/reference: 14 U.S.C. §3.
  * Order to active duty all members of reserve components being held as hostages. Authority/reference: 10 U.S.C. §12301(g)(1).
  * Develop and disseminate guidance on payment of reserve forces personnel called to active duty. Authority/reference: 10 U.S.C. §113.
  * Recall military retirees. Authority/reference: 10 U.S.C. §688(a).
  * Disseminate leave accrual regulations for persons missing in action (MIAs). Authority/reference: 10 U.S.C. §701(g).
  * If in a period of war declared by Congress, consider suspension of incentive pays for hazardous duty and other special and incentive pays by presidential executive order.

* **Non-Hostilities Authorities**
  * Order to active duty to provide assistance in response to a major disaster or emergency. Authority/reference: 10 U.S.C. §12304a
  * Order to active duty for preplanned missions in support of the combatant commands. Authority/reference: 10 U.S.C. §12304b

Appendix XII
Poverty Guidelines in Relation to Military Compensation

Background: The question of how many members of the armed forces receive military compensation that leaves, or has left, them below the federal poverty threshold has arisen in different contexts over the years. To answer the question, the federal poverty guidelines prepared annually by the Department of Health and Human Services have been used most frequently to provide the standard by which to judge whether particular members of the armed forces and their families are at or below the poverty threshold for a particular year.[1] The following table sets out the federal poverty guidelines in the 48 contiguous United States from 1973 to 2015.

Year	Single Person	2-Person Family	3-Person Family	Per-Person Increment
1973	$2,200	$2,900	$3,600	$700
1974	$2,330	$3,070	$3,810	$740
1975	$2,590	$3,410	$4,230	$820
1976	$2,800	$3,700	$4,600	$900
1977	$2,970	$3,930	$4,890	$960
1978	$3,140	$4,160	$5,180	$1,020
1979	$3,400	$4,500	$5,600	$1,100
1980	$3,790	$5,010	$6,230	$1,220
1981	$4,310	$5,690	$7,070	$1,380
1982	$4,680	$6,220	$7,760	$1,540
1983	$4,860	$6,540	$8,220	$1,680
1984	$4,980	$6,720	$8,460	$1,740
1985	$5,250	$7,050	$8,850	$1,800
1986	$5,360	$7,240	$9,120	$1,880
1987	$5,500	$7,400	$9,300	$1,900
1988	$5,770	$7,730	$9,690	$1,960
1989	$5,980	$8,020	$10,060	$2,040
1990	$6,280	$8,420	$10,560	$2,140
1991	$6,620	$8,880	$11,140	$2,260
1992	$6,810	$9,190	$11,570	$2,380
1993	$6,970	$9,430	$11,890	$2,460
1994	$7,360	$9,840	$12,320	$2,480
1995	$7,470	$10,030	$12,590	$2,560
1996	$7,740	$10,360	$12,980	$2,620
1997	$7,890	$10,610	$13,330	$2,720
1998	$8,050	$10,850	$13,650	$2,800
1999	$8,240	$11,060	$13,880	$2,820
2000	$8,350	$11,250	$14,150	$2,900
2001	$8,590	$11,610	$14,630	$3,020
2002	$8,860	$11,940	$15,020	$3,080
2003	$8,980	$12,120	$15,260	$3,140

[1] The poverty guidelines prepared by the Department of Health and Human Services are a simplified version of the federal government's statistical poverty thresholds used by the Bureau of the Census to prepare statistical estimates of the numbers of persons and families in poverty. The poverty threshold determinations of the Bureau of the Census are primarily used for statistical purposes only, whereas the poverty guidelines of the Department of Health and Human Services are used administratively to determine whether a particular person or family is eligible for assistance or services under one or more federal antipoverty programs.

Year	Single Person	2-Person Family	3-Person Family	Per-Person Increment
2004	$9,310	$12,490	$15,670	$3,180
2005	$9,570	$12,830	$16,090	$3,260
2006	$9,800	$13,200	$16,600	$3,400
2007	$10,210	$13,690	$17,170	$3,480
2008	$10,400	$14,000	$17,600	$3,600
2009	$10,830	$14,570	$18,310	$3,740
2010	$10,830	$14,570	$18,310	$3,740
2011	$10,890	$14,710	$18,530	$3,820
2012	$11,170	$15,130	$19,090	$3,960
2013	$11,490	$15,510	$19,530	$4,020
2014	$11,670	$15,730	$19,790	$4,060
2015	$11,770	$15,930	$20,090	$4,160

Source: "Annual Update of the HHS Poverty Guidelines," prepared annually by the Department of Health and Human Services. The "Annual Update of the HHS Poverty Guidelines" for 2015 was published at *Federal Register* volume 80 (January 22, 2015), 3236–37.

The guidelines for Alaska and Hawaii have been somewhat higher throughout the period covered in this table. In 2015, the guidelines for a single person in Alaska and Hawaii were $14,720 and $13,550, respectively, and the add-on for each additional family member was $5,200 in Alaska and $4,780 in Hawaii.

Probably the most useful source of information on military compensation by pay grade, longevity step, and family size is set out in the annual report of the Directorate of Compensation, Office of the Deputy Assistant Secretary of Defense for Military Personnel Policy, which is under the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)(MPP))/Compensation, generically titled "Selected Military Compensation Tables." Those tables incorporate increases in the rates of basic pay authorized by the annual national defense authorization acts and increases in the basic allowances for housing and subsistence prescribed by formulas established in the National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, and modified in the National Defense Authorization act for Fiscal Year 2001, Pub. L. No. 106-398.

Regular military compensation (RMC) is the measure of compensation that is typically used in comparisons with federal poverty thresholds for various family sizes. Following the 1998 consolidation of housing allowances for members stationed in the United States and overseas, RMC includes basic pay, basic allowance for subsistence, basic allowance for housing, and federal income tax advantage. The amount of basic pay a member receives varies depending on the member's pay grade and longevity step; the amount of basic allowance for subsistence varies depending on whether one is an officer or an enlisted member, i.e., by pay grade; basic allowance for housing varies depending on pay grade, duty location, and dependency status (with or without dependents); and federal income tax advantage varies by pay grade, longevity step, tax filing status (married/unmarried/head of household), and family size. Using the simplifying assumption that anyone with dependents, i.e., anyone with family size greater than one, is married, thereby effectively conflating the head-of-household tax filing status with married tax filing status, the DoD publication "Selected Military Compensation Tables" shows regular military compensation and each of their constituent parts by pay grade, longevity step, and family size. Generally speaking,[2] the

[2] But see the discussion of the various simplifying assumptions that must be made to calculate the federal income tax advantage for a member in a particular pay-grade/longevity-step/family-size category as set out in Chapter II.B.4. hereof, "Federal Income Tax Advantage," above. In particular, see text accompanying footnotes 22 to 26 of Chapter II.B.4. hereof, above.

"regular military compensation" construct for a member in a particular pay-grade/longevity-step/family-size category is a reasonable approximation of what the member would have to make in fully taxable compensation if the member were in the civilian labor force rather than in the military—especially for members in the lower enlisted pay grades where the poverty guidelines have the greatest likelihood of being in issue.

In making comparisons between military compensation levels for members in different pay-grade/longevity-step/family-size categories with poverty thresholds, one should keep in mind how the Federal HHS poverty guidelines are used in connection with the different programs for which they serve as an input. The appropriate military compensation figure to use may, for example, depend importantly on the federal program in issue.

The number of members in the armed forces entitled to food stamp aid under The Food Stamp Act of 1964, Pub. L. No. 88-525, 78 Stat. 703 (1964), and its successor, the Food Stamp Act of 1977, as amended,[3] is a question that frequently arises in the context of the adequacy of overall military compensation levels. That some members of the armed forces receive food stamp aid is a fact. Whether they should or not is subject to question. Section 8121(a) of the Department of Defense Appropriations Act, 1995, Pub. L. No. 103-335, §8121(a), 108 Stat. 2599, 2649–2650 (1994), required the Department of Defense to provide information to Congress on the use of food stamps by members of the armed forces, including the number of members eligible to receive benefits under the food stamp program and their location, the number of members receiving benefits and their location, and an estimate of the cost of raising the basic pay of members of the armed forces to a rate at which no member of the armed forces would be eligible to receive benefits.[4]

Partly in response to congressional concern[5], in 2003 the Department of Defense conducted a study of food stamp use by members of the armed forces. The summary of findings of the May 2003 Department of Defense report, entitled "Food Stamp Usage in the Military," is set out below:

> Less than two-tenths of one percent of the military members included in this study received food stamps (1478 members out of a total military population of 886,347). Furthermore, more than 50 percent of these individuals lived in government quarters. The majority of these members were eligible for food stamps because the Department of Agriculture [which oversees eligibility criteria] does not include the value of in-kind housing benefits in the income eligibility calculations.
>
> Overall, in 2004 the data did not support a claim that military food stamp usage was widespread. The fact that some enlisted members and even a few officers receive food stamps is more a result of larger-than-average household sizes and whether a member lives on or off base than it is an indicator of inadequate military compensation.

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[3] The Food Stamp Act of 1965, Pub. L. No. 88-525, 78 Stat. 703 (1964), as amended, is classified to 7 U.S.C. §2011 *et seq*.

[4] Eligibility for food stamp aid is household- rather than family-based, depending on the number of people in the household under consideration, gross household income, net household income, and total financial household resources, as well as a number of non-financial factors. In general, gross household income of a household seeking food stamp aid may not exceed 130 percent of the federal poverty guidelines for however many people are in the household. Net household income, which is determined by subtracting from gross household income a standard cost-of-living charge, an earned-income deduction, a dependent-care deduction, an excess- shelter deduction, and a medical deduction, may not exceed 100 percent of the federal poverty guidelines for the number of people in the household. For most members of the armed forces, total household financial resources may not exceed $2,000 for the household to be eligible for food stamps. If the household includes a person age 60 or older, the limit is $3,000.

[5] As expressed, for example, in the Department of Defense Appropriations Act, 1995, Pub. L. No. 103-335, section 8121(a).

The 2003 report noted that consecutive studies of the issue had showed a substantial decline in food stamp utilization. In 1991 some 19,400 members were estimated to be using food stamps. A 1995 study found 11,900 such members. The 1999 study identified food stamp utilization by only 6,300 members. The 2003 study noted the substantial decline in food stamp usage. In 1991, some 19,400 members were estimated.

Nevertheless, as noted in Chapter IIB3 of this volume, the existing need for food stamps by nearly 1 percent of the Armed Forces brought about major changes in the basic allowance for subsistence in subsequent years. In 2000, noting that more than 6,000 members still were depending on food stamps for subsistence,[6] Congress provided a BAS supplement, the Family Subsistence Supplemental Allowance (FSSA), for targeted personnel in the National Defense Authorization Act for Fiscal Year 2001. That provision was encoded in 37 U.S. Code 402a. The supplement would raise the subsistence allowance of a member with dependents who was eligible to receive food stamps, to the point where food stamps no longer were necessary, as long as the monthly payment did not exceed $500, an amount that was increased to $1,100 with the passage of the National Defense Authorization Act for Fiscal Year 2010.[7] A member's eligibility for food stamps would be determined by the standards of the Food Stamp Act of 1977 (7 U.S. Code 201(c), taking into consideration the amount of BAH for which the member was eligible by virtue of grade, location, and dependency status. The BAH amount would be considered whether or not the member was receiving such an allowance by virtue of not living in government quarters. The supplement would be curtailed by a promotion, permanent change of station, or after payment had been made for twelve consecutive months. However, the National Defense Authorization Act for Fiscal Year 2016 contained a sunset provision that cancelled supplemental subsistence benefits to service members after September 30, 2016, unless they are serving outside the United States, Puerto Rico, the U.S. Virgin Islands, or Guam. The sunset provision was based on the final report of the Military Compensation and Retirement Modernization Commission.[8]

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[6] See, for example, H.R. Rep. No. 106-616 (House Armed Services Committee, at 375, accompanying H.R. 5408, 106th Cong., 2d sess. (2000).

[7] National Defense Authorization Act for Fiscal Year 2010, Pub. L. 111-84, Title VI, Subtitle A, Sec. 602, 123 Stat. 2190, 2347 (2009).

[8] National Defense Authorization Act for Fiscal Year 2016, Pub. L. 114-92, Title VI, Subtitle A, Sec. 602, 129 Stat. 726, 836 (2015); U.S. House of Representatives, Committee on Armed Services, "Legislative Text and Joint Explanatory Statement to Accompany S. 1356, Pub. L. 114-92," Committee Print No. 2, 673 (2015).

Appendix XIII
Critical Dates Relating to Hostilities and Entitlement to Various Military and Veterans Benefits

Background: Whether a member or former member of an armed force is or is not entitled to various military or veterans benefits frequently turns on whether the member was a member of an armed force during a particular period of time, or was assigned to specific types of duty, or duty within a qualifying locality, during a particular period of time. For example, entitlement to certain veterans' benefits, including so-called "GI Bill" educational benefits, requires active duty as a member of an armed force for a certain minimum length of time during a designated period. Other entitlements limited by specific dates include combat duty pay (now known as hostile fire or imminent danger pay) and certain income and other federal tax benefits.

The following is a brief listing of some of the more important dates for determining eligibility for and entitlement to various military and veterans benefits deriving from military service during World War II, the Korean Conflict, the Vietnam Conflict, the Persian Gulf War, the Bosnia-Herzegovina Peacekeeping Operation, Kosovo, Operation Enduring Freedom, and Operation Iraqi Freedom.[1] If an individual member or former member of an armed force was not on active duty during one or more of the inclusive periods set out below, the member will not be entitled to the general category of benefits indicated. If the member was on active duty during one or more of the inclusive periods, the member may or may not be entitled to one or more of the benefits included within the general category of benefits indicated, depending on whether the member met certain additional requirements for receipt of those benefits. The question of what specific benefits a member or former member may be entitled to is beyond the scope of this appendix, as is the question of what the additional requirements for receipt of any particular benefit may be. For these latter two questions, the reader is referred to the requirements for receipt of benefits under specific program headings.

World War II:	
* Japanese attack on Pearl Harbor	December 7, 1941
* United States declares war on Japan.	December 8, 1941
* United States declares war on Germany, Italy.	December 11, 1941
* Veterans' benefits of various kinds	December 7, 1941–December 31, 1946
* Germany surrenders unconditionally.	May 7, 1945
* Japan announces its intention to surrender.	August 14, 1945
* Formal unconditional surrender of Japan (aboard USS *Missouri* in Tokyo Bay)	September 2, 1945
* Presidential proclamation of end of hostilities	December 31, 1945
* Formal end of war with Germany (Joint resolution of Congress)	October 19, 1951
* Peace treaty with Japan	April 28, 1952
* Prisoner of war pay filing deadline	August 31, 1955
Korean Conflict:	
* North Korea invades South Korea.	June 25, 1950
* Combat duty pay authorized	May 31, 1950–January 31, 1955
* Federal tax benefits (combat zone)	June 25, 1950–January 31, 1955
* Veterans' benefits of various kinds	June 27, 1950–January 31, 1955
* Kaesong/Panmunjom truce talks begin.	July 10, 1951
* Cease-fire announced at Panmunjom.	July 27, 1953

[1] Certain other important dates are also set out below, such as the date or dates of various precipitating and aggravating events underlying the different periods of armed conflict, the date or dates of events ending such periods, the date or dates of other important events preceding, accompanying, and following such periods, etc.

* Prisoner of war pay filing deadline	August 21, 1955 (subject to exceptions for persons in POW status after August 21, 1954)
Vietnam Conflict:	
* Armed Forces Expeditionary Medal authorized	July 2, 1958
* Federal tax benefits (combat zone)	February 28, 1961–June 30, 1996
* Hostile fire pay/imminent danger pay	October 1, 1963–January 31, 1976
* Veterans' benefits of various kinds	August 5, 1964–May 7, 1975
* Paris Peace Accord signed (cease-fire)	January 27, 1973
* United States forces withdraw from Vietnam.	March 28, 1973
* Prisoner of war pay filing deadline	June 24, 1973 (subject to exceptions for persons in POW status after June 24, 1970)
* Selective Service inductions terminated (implementation of "all-volunteer force")	June 30, 1973
* Last U.S. citizen evacuated from Saigon	April 29, 1975
* Republic of Vietnam (South Vietnam) surrenders to Socialist Republic of Vietnam (North Vietnam).	April 30, 1975
Persian Gulf War:	
* Iraq invades Kuwait.	August 1, 1990
* Southwest Asia Service Medal authorized	August 2, 1990–November 30, 1995
* Hostile fire/imminent danger pay authorized	August 2, 1990, to date (discontinued August 31, 1993, for all of Southwest Asia except Kuwait, Iraq, Saudi Arabia, Yemen, and Persian Gulf Waters)
* Veterans' benefits of various kinds	August 2, 1990, to date
* Operation Desert Shield: U.S. deploys forces into Southwest Asia	August 7, 1990
* Iraq annexes Kuwait.	August 28, 1990
* UN Resolution 678: authorizes use of force if Iraq does not withdraw from Kuwait by January 15, 1991. U.S. begins orchestration of 28-nation coalition with 690,000 troops, 450,000 of which were U.S.	November 29, 1990
* Operation Desert Storm: Air war begins.	January 17, 1991
* Federal tax benefits (combat zone)	January 17, 1991, to date
* Operation Desert Storm: Ground war begins.	February 24, 1991
* Iraq stops resistance: Cessation of hostilities	February 28, 1991
* Formal cease-fire establishes "no-fly zones" over Iraq.	April 11, 1991
Somalia Peacekeeping Operation Restore Hope	December 1992–March 1993
Bosnia-Herzegovina Peacekeeping Operation:	
* United States and European Community recognize Bosnia-Herzegovina as an independent state.	April 7, 1992
* Armed Forces Service Medal authorized	June 1, 1992, to date
* Hostile fire/imminent danger pay authorized	June 22, 1992, to date
* Dayton Peace Accords initialed.	November 21, 1995
* Federal tax benefits (combat zone)	November 21, 1995, to date
* Secretary of Defense declares Bosnia-Herzegovina deployment to be a contingency operation.	December 2, 1995
* President formally authorizes deployment of U.S. forces.	December 3, 1995
* Beginning of call-up of Selected Reserves for support of Bosnia-Herzegovina peacekeeping operations	December 8, 1995

* Dayton Accords formally signed in Paris	December 14, 1995
* Multinational Implementation Force (IFOR) oversees military aspects of Dayton Accords.	December 1995–December 1996
* Stabilization Force Bosnia-Herzegovina (SFOR) succeeds IFOR, carries on multinational peacekeeping activities.	December 1996–December 2004
* Housing allowance system is consolidated and basic allowance for subsistence is reformed by National Defense Authorization Act for Fiscal Year 1998.	January 1, 1998
Kosovo	
* Rambouillet Accord declares Kosovo autonomy.	February 23, 1999
* NATO Operation Allied Force bombs Serbian targets in Kosovo.	March 24–June 10, 1999
* Hostile fire/imminent danger pay authorized for area around Yugoslavia	April 13, 1999
* Kosovo Force (KFOR) deploys, including 7,000 U.S. troops	June 12–20, 1999
* KFOR presence in Kosovo continues	June 1999 to date
Operation Enduring Freedom (Afghanistan) and Operation Iraqi Freedom	
* Hostile fire/imminent danger pay approved for Afghanistan	November 1, 1988
* Missile attacks on suspected terrorist sites in Sudan and Afghanistan in response to bombings of United States embassies in Kenya and Tanzania	August 1998
* National Defense Authorization Act for Fiscal Year 2000 reforms retired-pay system.	October 5, 1999
* Terrorist attack on USS *Cole* in Aden harbor	October 12, 1999
* Terrorist hijackers attack World Trade Center and Pentagon.	September 11, 2001
* Multinational Operation Enduring Freedom begins in Afghanistan	October 7, 2001
* Interim Afghan government of Hamid Karzai is seated.	December 22, 2001
* Georgia designated for hostile fire/imminent danger pay	July 30, 2002
* Djibouti, Eritrea, and Kenya designated for hostile fire/imminent danger pay	July 31, 2002
* Imminent danger pay increases to $225 per month and family separation allowance to $250 per month.	October 1, 2002
* Ivory Coast designated for hostile fire/imminent danger pay	February 27, 2003
* Launch of Operation Iraqi Freedom	March 20, 2003
* U.S. forces enter Baghdad	April 9, 2003
* First meeting of Iraqi governing council	July 13, 2003
* NATO takes role in Afghanistan by assuming command of International Security Assistance Force	August 11, 2003
* Death gratuity increased to $12,000	November 26, 2003
* Saddam Hussein captured	December 14, 2003
* Phase-in of full concurrent receipt begins for retired disabled members.	January 1, 2004
* Provisional government installed in Iraq; occupation coalition retains military control	June 30, 2004
* Increases in Survivor Benefit Plan phased in	October 28, 2004
* Death gratuity set to increase each year in equal percentage to increase in basic pay	October 28, 2004
* Exclusion of combat pay and family separation allowance from determination of eligibility for federal assistance	October 28, 2004
* Afghan presidential elections held	October 2004

* Elections held for Iraqi Transitional National Assembly	January 30, 2005
* First Afghan parliamentary and provincial elections held	September 2005
* Beginning of Continued Pay After Death for surviving family members	October 1, 2005
* First full-term election held for Iraqi government since the U.S. invasion	December 15, 2005
* Death gratuity increased to $100,000 for all members who die on active duty	January 2006
* Hardship duty pay increased to $750.00 per month	January 2006
* NATO takes control of security for the entire country.	October 2006
* Government payment for life-insurance premiums increased for members serving in Afghanistan and Iraq	October 17, 2006
* Announcement of new U.S. strategy in Iraq to involve a surge in troop deployments	January 2007
* Hardship duty pay increased to $1,500 per month	January 28, 2008
* Hostile fire pay authorized to be increased to $450 per month	January 28, 2008
* Additional 4,500 U.S. troops deployed to Afghanistan	September 2008
*Security pact approved, sets all U.S. troops to leave Iraq by end of 2011	November 2008
*Additional 17,000 U.S. troops deployed to Afghanistan	February 2009
* President Obama announces new U.S. strategy in Afghanistan, including 4,000 additional U.S. forces.	March 2009
* President Obama announces withdrawal of most U.S. troops from Iraq by end of August 2010, the rest set to leave by end of 2011.	March 2009
* President Obama announces “surge” of 30,000 troops into Afghanistan	December 2009
* Operation Iraqi Freedom ends and is replaced by Operation New Dawn (name change only)	September 2010
* Death of Osama bin Laden in Pakistan	May 2011
* President Obama announces reversal of the “surge” - 10,000 troops to leave Afghanistan by end of 2011; 23,000 more to leave by summer 2012	June 2011
* Collapse of discussions about extension of troops in Iraq	October 2011
* Withdrawal of troops from Iraq	December 2011
* End of Operation New Dawn	December 2011
* Transfer of security responsibilities to Afghan authorities completed	June 2013
* Announcement of return of U.S. forces to Iraq	June 2014
* Return of U.S. forces to Iraq named Operation Inherent Resolve	October 2014
* Operation Enduring Freedom-Afghanistan ends	December 2014
* Operation Enduring Freedom ends and is replaced by Operation Freedom’s Sentinel (train, advise, assist); NATO equivalent is Operation Resolute Support	January 2015

Appendix XIV
United States Casualties in Wars of the 20th and 21st Centuries

War/Conflict	Service	Number Serving	Casualties		Deaths	
			Number	Pct	Number	Pct
World War I (1917–18)	Total	4,734,991	320,518	6.8	116,516	2.5
	Army	4,057,101	300,041	7.4	106,378	2.6
	Navy	599,051	8,106	1.4	7,287	1.2
	Marines	78,839	12,371	15.7	2,851	3.6
World War II (1941–45)	Total	16,122,566	1,077,245	6.7	405,399	2.5
	Army	11,260,000	884,135	7.9	318,274	2.8
	Navy	4,183,466	100,392	2.4	62,614	1.5
	Marines	669,100	92,718	13.9	24,511	3.7
Korean Conflict (1950–53)	Total	5,720,000	140,197	2.5	36,913	0.6
	Army	2,834,000	107,757	3.8	30,161	1.1
	Navy	1,177,000	2,224	0.2	648	0.1
	Marines	424,000	28,352	6.7	4,608	1.1
	Air Force	1,285,000	1,864	0.2	1,496	0.1
Vietnam Conflict (1964–73)	Total	8,744,000	211,480	2.4	58,177	0.7
	Army	4,368,000	134,997	3.1	38,195	0.9
	Navy	1,842,000	6,740	0.4	2,562	0.1
	Marines	794,000	66,229	8.3	14,837	1.9
	Air Force	1,740,000	3,514	0.2	2,583	0.1
Persian Gulf War (1991)	Total	2,050,790	849	.04	383	.02
	Army	744,981	480	.06	224	.03
	Navy	576,124	67	.01	56	.01
	Marines	200,358	160	.08	68	.04
	Air Force	529,287	44	.01	35	.01
Overseas Contingency Operations*	Total	2,985,251	70,545	2.36	6,917	.23
	Army	1,410,720	49,211	3.49	5,003	.35
	Navy	559,353	1,953	0.35	248	.04
	Marines	348,660	14,533	4.17	1,484	.43
	Air Force	666,518	4,848	0.73	182	.03

* Includes Operation Enduring Freedom, Operation Iraqi Freedom, Operation Inherent Resolve, and Operation Freedom's Sentinel, as of Fall 2017. Based on data from the Defense Manpower Data Center for deployments, casualties, and deaths. Navy totals do not include Coast Guard.

Appendix XV
Statute of Limitations for Claims against the Federal Government for Back Pay and Other Matters

Background: Questions frequently arise concerning the entitlement of a member or former member of the armed forces to compensation for or on account of service or other compensable action that took place in the distant past. In the absence of a specifically controlling statute of limitations that provides for a longer period of time in which a suit may be brought against the federal government, claims against the federal government must generally be brought with six years after the claim or cause of action accrues.[1] Thus, Section 2401 of Title 28, United States Code, 28 U.S.C. §2401, provides that every civil action against the United States, other than an action based on a tort claim, must be brought within six years after the cause of action "first accrues," provided that if the claimant is "under a legal disability" or "beyond the seas" when the claim accrues, an action may be brought within three years "after the disability ceases". [See 28 U.S.C. §2401(a).] An action against the United States premised on a tort claim, on the other hand, must generally be brought within two years after the cause of action accrues. [See 28 U.S.C. §2401(b).] The same rule applies to claims against the United States over which the United States Court of Claims has jurisdiction. [See 28 U.S.C. §2501.]

An exception to these general rules applies if the claim of a member or former member of the armed forces accrues during wartime or within five years before war begins, in which case the claim must be presented to the Department of Defense "within five years after peace is established"[2] or within six years after the claim accrues,[3] whichever is later. 31 U.S.C. §3702(b)(2).[4] The National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2543 (1996), amended 31 U.S.C. §3702 by providing that the Secretary of the relevant department can waive the peacetime six-year limit for claims of outstanding pay or allowances if the amount of the claim is less than $25,000.

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[1] The question of when a particular claim or cause of action accrues, or accrued, for the purpose of applying a statute of limitations is beyond the scope of this appendix. The question has, however, been the subject of much dispute and extended litigation in various contexts over the years.

[2] The question when "peace is established" with respect to a particular war or a particular claimant is beyond the scope of this appendix.

[3] See footnote 1 hereof, above.

[4] As originally provided, the Comptroller General was required to settle all claims against the Federal Government under 31 U.S.C. §3702. The Comptroller General's functions under former 31 U.S.C. §3702 were transferred, effective June 30, 1996, to the director of the Office of Management and Budget by Section 211 of the Legislative Branch Appropriations Act, 1996, Pub. L. No. 104-53, §211, 104 Stat. 514, 535 (1995). Insofar as those functions relate to claims for military pay, travel, retirement, survivor benefits, and other matters falling within the purview of the Department of Defense, the director of the Office of Management and Budget has delegated those functions to the Department of Defense.

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