

"(7) An alteration of speed, either alone or in conjunction with an alteration of course, should be substantial. A number of small alterations of speed should be avoided.

"(8) If a close quarters situation is imminent, the most prudent action may be to take all way off the vessel."

Approved September 24, 1963.

Public Law 88-132

AN ACT

October 2, 1963
[H. R. 5555]

To amend title 37, United States Code, to increase the rates of basic pay for members of the uniformed services, and for other purposes.

Uniformed Services Pay Act of 1963.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Pay Act of 1963".

BASIC PAY

76 Stat. 456.

SEC. 2. Section 203 of title 37, United States Code, is amended to read as follows:

"§ 203. Rates

"(a) The rates of monthly basic pay for members of the uniformed services within each pay grade are set forth in the following tables:

"Commissioned officers

" Pay grade	Years of service computed under sec. 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
O-10 ¹	\$1,200.00	\$1,315	\$1,315	\$1,315	\$1,315	\$1,365	\$1,365
O-9	1,063.30	1,155	1,180	1,180	1,180	1,210	1,210
O-8	963.30	1,050	1,075	1,075	1,075	1,155	1,155
O-7	800.28	905	905	905	945	945	1,000
O-6	592.80	690	735	735	735	735	735
O-5	474.24	590	630	630	630	630	650
O-4	400.14	515	550	550	560	585	625
O-3 ²	326.04	440	470	520	545	565	595
O-2 ²	259.36	375	450	465	475	475	475
O-1 ²	222.30	300	375	375	375	375	375

" Pay grade	Years of service computed under sec. 205							
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O-10 ¹	\$1,470	\$1,470	\$1,575	\$1,575	\$1,680	\$1,680	\$1,785	\$1,785
O-9	1,260	1,260	1,365	1,365	1,470	1,470	1,575	1,575
O-8	1,210	1,210	1,260	1,315	1,365	1,420	1,420	1,420
O-7	1,000	1,050	1,155	1,235	1,235	1,235	1,235	1,235
O-6	735	760	880	925	945	1,000	1,085	1,085
O-5	685	730	785	830	855	885	885	885
O-4	660	690	720	740	740	740	740	740
O-3 ²	625	640	640	640	640	640	640	640
O-2 ²	475	475	475	475	475	475	475	475
O-1 ²	375	375	375	375	375	375	375	375

¹ While 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, or Commandant of the Marine Corps, basic pay for this grade is \$1,970 regardless of cumulative years of service computed under section 205 of this title.

² Does not apply to commissioned officers who have been credited with over 4 years' active service as an enlisted member.

76 Stat. 458. “(b) While serving as a permanent professor at the United States Military Academy or the United States Air Force Academy, an officer who has over 36 years of service computed under section 205 of this title is, in addition to the pay and allowances to which he is otherwise entitled under this title, entitled to additional pay in the amount of \$250 a month. This additional pay may not be used in the computation of retired pay.”

BASIC PAY AND ALLOWANCES OF CONTRACT SURGEONS

76 Stat. 453. SEC. 3. (a) Section 201(b) of title 37, United States Code, is amended by striking out the words “O-2 with two or less” and inserting in place thereof the words “O-3 with over four, but not more than six,”.

76 Stat. 479. (b) Section 421(a) of title 37, United States Code, is amended by striking out the words “O-2 with less than two” and inserting in place thereof the words “O-3 with over four, but not more than six,”.

SPECIAL PAY FOR PHYSICIANS AND DENTISTS

76 Stat. 464. SEC. 4. Section 302(b) of title 37, United States Code, is amended by striking out the figure “\$200” in clause (3) and the figure “\$250” in clause (4) and inserting in place thereof the figure “\$250” and the figure “\$350”, respectively.

RETIRED PAY AND RETAINER PAY

70A Stat. 107;
74 Stat. 265. SEC. 5. (a) Except as provided in section 1402 of title 10, United States Code, the changes made by this Act in the rates of basic pay of members of the uniformed services do not increase the retired pay or retainer pay to which a member or former member of the uniformed services was entitled on the day before the effective date of this Act. However, except for a member covered by section 6331 of title 10, United States Code, who became entitled to retainer pay before April 1, 1963, and subject to subsection (j) of this section, a member or former member of a uniformed service who became entitled to retired pay or retainer pay after March 31, 1963, but before the effective date of this Act, is entitled—

(1) to have the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act recomputed under the rates of basic pay prescribed by section 2 of this Act; or

76 Stat. 456. (2) to continue to have that pay computed under the rates of basic pay that were in effect under section 203 of title 37, United States Code, on the day before the effective date of this Act, plus the percentage increase provided by subsection (e) of this section; whichever pay is the greater. For the purposes of the preceding sentence, a member or former member who became entitled to retired pay on April 1, 1963, by virtue of section 1 of the Act of April 23, 1930, ch. 209, as amended (5 U.S.C. 47a), shall be considered as having become entitled to that pay before April 1, 1963.

46 Stat. 253.

10 USC 564
note.

(b) A member or former member of a uniformed service who was retired other than for physical disability and who, in accordance with section 511 of the Career Compensation Act of 1949 (63 Stat. 829), is entitled to retired pay or retainer pay computed by “method” (a) of that section using rates of basic pay that were in effect before October 1, 1949, is entitled—

(1) to have that pay recomputed by “method” (b) of that section using the rates of basic pay that were in effect under that Act on the day before the effective date of this Act; or

(2) to an increase of 5 percent in the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act;

whichever pay is the greater.

(c) A member or former member of a uniformed service who is entitled to retired pay or retainer pay computed under the rates of basic pay that were in effect under the Career Compensation Act of 1949 before June 1, 1958, including a member or former member who is entitled to retired pay under section 7 (b) or (c) of the Act of May 20, 1958, Public Law 85-422 (72 Stat. 130), is entitled—

63 Stat. 802.

(1) to have that pay recomputed under the rates of basic pay that were in effect under that Act on the day before the effective date of this Act; or

(2) to an increase of 5 percent in the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act;

whichever pay is the greater.

(d) A member or former member of a uniformed service who was entitled to retired pay on the day before the effective date of this Act and who served as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps is entitled—

(1) to have his retired pay recomputed under the formula for computing retired pay applicable to him—

(A) when he retired; or

(B) if he served on active duty after he retired and his retired pay was recomputed by reason of that service, when his retired pay was so recomputed;

using as his rate of basic pay the rate of basic pay prescribed for officers serving on active duty in those positions on June 1, 1958, by footnote 1 to the table for commissioned officers in section 201(a) of the Career Compensation Act of 1949, as amended (72 Stat. 122); or

76 Stat. 500.

(2) to an increase of 5 percent in the retired pay to which he was entitled on the day before the effective date of this Act;

whichever pay is the greater.

(e) A member or former member of a uniformed service who was entitled to retired pay or retainer pay on the day before the effective date of this Act, other than a member or former member who is covered by subsection (b), (c), or (d) of this section, is entitled to an increase of 5 percent in the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act.

(f) Notwithstanding any other provision of law, a member of an armed force who was entitled to pay and allowances under any of the following provisions of law on the day before the effective date of this Act shall continue to receive the pay and allowances to which he was entitled on that day:

(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224).

50 USC app.
1691-1692 note.

5 USC 626c note.

(g) Chapter 71 of title 10, United States Code, is amended—

70A Stat. 106.

(1) by adding the following new section after section 1401:

“§ 1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index

“(a) Unless otherwise specifically provided by law, the retired pay or retainer pay of a member or former member of an armed force shall not be recomputed to reflect any increase in the rates of basic pay for members of the armed forces if that increase becomes effective after the effective date of this section.

“(b) In January of each calendar year after 1963, the Secretary of Defense shall determine the percent that the annual average of the Consumer Price Index (all items—United States city average) published by the Bureau of Labor Statistics for the preceding calendar year has increased over that for 1962 or, if later, for the calendar year preceding that in which the most recent adjustment in retired pay and retainer pay has been made under this subsection. If the Secretary determines the percent of that increase to be 3 or more, the retired pay or retainer pay of a member or former member of an armed force who became entitled to that pay before January 2 of the year in which the Secretary makes that determination shall, as of April 1 of that year, be increased by that percent, adjusted to the nearest one-tenth of 1 percent.”; and

(2) by inserting the following new item in the analysis:

“1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index.”

(h) Title 10, United States Code, is amended as follows:

70A Stat. 106.

(1) Section 1401 is amended by striking out the words “, and adjust to reflect later changes in applicable permanent rates” in footnote 1 to the table;

(2) Sections 3991 and 8991 are each amended—

70A Stat. 232;
71 Stat. 380.
70A Stat. 556;
71 Stat. 389.

(A) by amending column 1 of formula A in the table to read as follows:

“Monthly basic pay² of member's retired grade.”; and

(B) by amending footnote 2 to the table to read as follows:

“² Compute at rates applicable on date of retirement.”

Repeal.

70A Stat. 385.

(3) Chapter 561 is amended by repealing section 6149 and striking out the following item in the analysis:

“6149. Retired pay: computed on basis of rates of pay for officers on the active list.”

70A Stat. 385;
72 Stat. 1509;
70A Stat. 394;
72 Stat. 1511.

(4) Sections 6151(b), 6323(e), 6325(a)(2) and (b)(2), 6326(c)(2), 6381(a)(2), 6383(c)(2), 6390(b)(2), and 6394(h) are each amended by striking out the words “to which he would be entitled if serving on active duty in” and inserting in place thereof the word “of”.

70A Stat. 396.

(5) Section 6327(b) is amended by striking out the words “to which he would be entitled if on active duty” and inserting in place thereof the words “of the grade in which retired”.

70A Stat. 413;
71 Stat. 385;
70A Stat. 414.

(6) Sections 6396(c)(2), 6398(b)(2), 6399(c)(2), and 6400(b)(2) are each amended by striking out the words “to which she would be entitled if serving on active duty in” and inserting in place thereof the word “of”.

63 Stat. 525.

(i) Section 423 of title 14, United States Code, is amended by striking out the word “active-duty” wherever it appears and inserting in place thereof the word “basic”.

(j) A member or former member of a uniformed service is not entitled to an increase in his retired pay or retainer pay because of the enactment of this Act for any period before the effective date of this Act.

70A Stat. 619.

(k) Section 3(b) of the Act of August 10, 1956, ch. 1041 (33 U.S.C. 857a(b)), and section 221(b) of the Public Health Service Act (42 U.S.C. 213a(b)) are each amended by striking out the words “or ‘the Secretary concerned’” and inserting in place thereof the words “, ‘the Secretary concerned’, or ‘the Secretary of Defense’”.

70A Stat. 107.

(l) (1) Section 1402(a) of title 10, United States Code, is amended to read as follows:

“(a) A member of an armed force who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other

than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty as follows:

"Col. 1, take—	Col. 2, multiply by—	Col. 3, subtract—
Monthly basic pay ¹ of the grade in which he would be eligible— (1) to retire if he were retiring upon that release from active duty; or (2) to transfer to the Fleet Reserve or Fleet Marine Corps Reserve if he were transferring to either upon that release from active duty.	$2\frac{1}{2}$ percent of the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay. ²	Excess over 75 percent of pay upon which computation is based.

¹ For a member who has been entitled, for a continuous period of at least two years, to basic pay under the rates of basic pay in effect upon that release from active duty, compute under those rates. For a member who has been entitled to basic pay for a continuous period of at least two years upon that release from active duty, but who is not covered by the preceding sentence, compute under the rates of basic pay replaced by those in effect upon that release from active duty. For any other member, compute under the rates of basic pay under which the member's retired pay or retainer pay was computed when he entered on that active duty.

² Before applying the percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

However, an officer who was ordered to active duty (other than for training) in the grade that he holds on the retired list under former section 6150 of this title, or under any other law that authorized advancement on the retired list based upon a special commendation for the performance of duty in actual combat, may have his retired pay recomputed under this subsection on the basis of the rate of basic pay applicable to that grade upon his release from that active duty only if he has been entitled, for a continuous period of at least three years, to basic pay at that rate. If, upon his release from that active duty, he has been entitled to the basic pay of that grade for a continuous period of at least three years, but he does not qualify under the preceding sentence, he may have his retired pay recomputed under this subsection on the basis of the rate of basic pay prescribed for that grade by the rates of basic pay replaced by those in effect upon his release from that duty."

70A Stat. 385;
73 Stat. 337.

(2) Notwithstanding paragraph (1) of this subsection, and unless otherwise entitled to higher retired pay or retainer pay, a member of a uniformed service who is on active duty (other than for training) on the effective date of this Act, who was entitled to retired pay or retainer pay before he entered on that duty, and who is released from that duty on or after the effective date of this Act after having served on that duty for a continuous period of at least one year shall, upon that release from active duty, be entitled to recompute his retired pay or retainer pay under the table in section 1402 of title 10, United States Code, subject to section 6483 (c) of title 10, as that table and that section were in effect on the day before the effective date of this Act, using rates of basic pay prescribed by this Act.

70A Stat. 107.
72 Stat. 129.

(m) Section 6483 (c) of title 10, United States Code, is repealed.

Repeal.

SUBMARINE PAY FOR MEMBERS TRAINING FOR DUTY ON NUCLEAR-POWERED SUBMARINES

SEC. 6. Section 301(a)(2) of title 37, United States Code, is amended to read as follows:

76 Stat. 461.

"(2) as determined by the Secretary concerned, on a submarine (including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto), or, in the case of personnel qualified in submarines, as a prospective crew-member of a submarine being constructed, and during periods of instruction to prepare for assignment to a submarine of advanced design or a position of increased responsibility on a submarine;"

INCENTIVE PAY FOR DUTY INSIDE A HIGH- OR LOW-PRESSURE CHAMBER

76 Stat. 461.

SEC. 7. Section 301 (a) (9) of title 37, United States Code, is amended to read as follows:

“(9) inside a high- or low-pressure chamber;”.

MULTIPLE PAYMENTS OF INCENTIVE PAY

SEC. 8. Section 301 (e) of title 37, United States Code, is amended by striking out the words “only one payment” and inserting in place thereof the words “not more than two payments”.

SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE

37 USC 301-309.

SEC. 9. (a) Chapter 5 of title 37, United States Code, is amended as follows:

(1) The following new section is added after section 309:

“§ 310. Special pay: duty subject to hostile fire

“(a) Except in time of war declared by Congress, and under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of \$55 a month for any month in which he was entitled to basic pay and in which he—

“(1) was subject to hostile fire or explosion of hostile mines;

“(2) was on duty in an area in which he was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period he was on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines; or

“(3) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

A member covered by clause (3) who is hospitalized for the treatment of his injury or wound may be paid special pay under this section for not more than three additional months during which he is so hospitalized.

“(b) A member may not be paid more than one special pay under this section for any month. A member may be paid special pay under this section in addition to any other pay and allowances to which he may be entitled.

“(c) Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

“(d) The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year.”

(2) The following new item is inserted in the analysis:

“310. Special pay: duty subject to hostile fire.”

(b) The Combat Duty Pay Act of 1952 (50 App. U.S.C. 2351 et seq.) is repealed.

Report to Congress.
66 Stat. 538.

ELECTION BY MEMBERS WITHOUT DEPENDENTS NOT TO OCCUPY GOVERNMENT QUARTERS

76 Stat. 470.

SEC. 10. Section 403 (b) of title 37, United States Code, is amended by adding the following sentence at the end thereof: “However, except as provided by regulations prescribed under subsection (g) of this section, a commissioned officer without dependents who is in a pay

grade above pay grade O-3 and who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade or rank and adequate for himself, may elect not to occupy those quarters and instead to receive the basic allowance for quarters prescribed for his pay grade by this section."

FAMILY SEPARATION ALLOWANCE

SEC. 11. Chapter 7 of title 37, United States Code, is amended as follows: 37 USC 401-426.

(1) The following new section is inserted after section 426:

"§ 427. Family separation allowance

"(a) In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

"(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

"(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.

"(b) Except in time of war or of national emergency hereafter declared by Congress, and in addition to any allowance or per diem to which he otherwise may be entitled under this title, including subsection (a) of this section, a member of a uniformed service with dependents (other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service)) who is entitled to a basic allowance for quarters is entitled to a monthly allowance equal to \$30 if—

"(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

"(2) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

"(3) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

A member who becomes entitled to an allowance under this subsection by virtue of duty described in clause (2) or (3) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period."

(2) The analysis is amended by inserting the following item: "427. Family separation allowance."

SPECIAL PAY FOR SEA DUTY AND AT CERTAIN LOCATIONS

SEC. 12. (a) Section 305 of title 37, United States Code, is amended to read as follows: 76 Stat. 465.

"§ 305. Special pay: while on sea duty or duty at certain places

"(a) Except as provided by subsection (b) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay—

“(1) is entitled, while on sea duty, to; or
 “(2) may be paid, while on duty at a designated place outside the contiguous 48 States and the District of Columbia; special pay at the following monthly rates:

“Pay grade	Monthly rate
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

“(b) Appropriations of the Department of Defense may not be paid, as foreign duty pay under subsection (a) of this section, to a member of a uniformed service who is a resident of a State, Puerto Rico, the Virgin Islands, a possession, or a foreign country and who is serving in that State, Puerto Rico, the Virgin Islands, that possession, or that foreign country, as the case may be.”

(b) Notwithstanding subsection (a), an enlisted member who, on the day before the effective date of this Act, was permanently assigned to duty at a place outside the United States or in Alaska or Hawaii, shall, during the remaining period of that assignment, but not after that place is designated for the purpose of section 305(a)(2) of title 37, United States Code, be paid the basic pay to which he was entitled on that date plus special pay under section 305 of title 37, United States Code, whenever qualified thereunder as that section was in effect on the day before the effective date of this Act, if the total of that basic pay and that special pay is more than the basic pay to which he would otherwise be entitled during that period under section 2 of this Act.

(c) The analysis of chapter 5 of title 37, United States Code is amended by striking out the following item:

“305. Special pay: sea and foreign duty.”

and inserting in place thereof the following item:

“305. Special pay: while on sea duty or duty at certain places”

SAVINGS PROVISION

72 Stat. 1127.

SEC. 13. (a) The enactment of this Act does not reduce the rate of dependency and indemnity compensation under section 411 of title 38, United States Code, that any person was receiving on the day before the effective date of this Act or which thereafter becomes payable for that day by reason of a subsequent determination.

(b) The enactment of this Act does not reduce the basic pay or the retired pay or retainer pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this Act.

EFFECTIVE DATE

SEC. 14. This Act becomes effective on October 1, 1963.

Approved October 2, 1963, 9:40 a.m.