

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

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

INCREASE IN RETIRED OR RETAINER PAY OF MEMBERS ENTITLED THERETO ON OR AFTER OCTOBER 1, 1967

Pub. L. 90-207, §6, Dec. 16, 1967, 81 Stat. 654, provided that: “Notwithstanding any other provision of law, a member or former member of a uniformed service who initially becomes entitled to retired pay or retainer pay on or after October 1, 1967, shall be entitled to have that pay computed using the rates of basic pay prescribed by the first section of this Act [amending section 203(a) of Title 37].”

INCREASES IN RETIRED OR RETAINER PAY

Pub. L. 89-501, title III, §303, July 13, 1966, 80 Stat. 278, provided that: “Notwithstanding any other provision of law, a member or former member of a uniformed service who initially becomes entitled to retired pay or retainer pay on the effective date of this title shall be entitled to have that pay computed using the rates of basic pay prescribed by the first section of this title [amending section 203(a) of Title 37].”

Effective date of section 303 of Pub. L. 89-501 as the first day of the first pay period which begins on or after July 1, 1966, see section 304 of Pub. L. 89-501, set out as Effective Date of 1966 Amendments note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

Pub. L. 89-132, §5(a), Aug. 21, 1965, 79 Stat. 547, provided that: “The retired pay or retainer pay of a member or former member of a uniformed service who is entitled to that pay computed under rates of basic pay in effect before the effective date of this Act [Sept. 1, 1965] shall be increased, effective that date, by the per centum (adjusted to the nearest one-tenth of 1 per centum) that the Consumer Price Index (all items—United States city average), published by the Bureau of Labor Statistics, for the calendar month immediately preceding the effective date of this Act has increased over the average monthly index for calendar year 1962.”

CONTINUATION OF PAY AND ALLOWANCES OF CERTAIN PERSONS WHO SERVED AS GENERALS OF THE ARMY, FLEET ADMIRALS OF THE NAVY, GENERAL OF THE MARINE CORPS, OR ADMIRAL IN THE COAST GUARD

Pub. L. 89-132, §7, Aug. 21, 1965, 79 Stat. 547, provided that: “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 [Sept. 1, 1965] 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).”

INCREASE IN RETIRED PAY TO PERSONS RETIRED BEFORE JUNE 1, 1958

Pub. L. 85-422, §4, May 20, 1958, 72 Stat. 128, as amended by Pub. L. 85-855, §1(a), Aug. 28, 1958, 72 Stat. 1104, provided that:

“(a) Except for members covered by section 7 of this Act, members and former members of the uniformed services who are entitled to retired pay, retirement pay, retainer pay, or equivalent pay, on the day before the effective date of this Act [June 1, 1958], shall be entitled to an increase of 6 per centum of that pay to which they were entitled on that date.

“(b) Notwithstanding any other provision of law, a member of a uniformed service retired under any provision of law, or transferred to the Fleet Reserve or Fleet Marine Corps Reserve, on the effective date of this Act [June 1, 1958] shall have his retired pay or retainer pay

computed on the basis of the rates of basic pay set forth in the Career Compensation Act of 1949, as amended by this Act, or on the rates of basic pay set forth in the Career Compensation Act of 1949 on the day before the effective date of this Act, plus 6 per centum of that pay, whichever is greater.

“(c) Section 5 of the Career Incentive Act of 1955 (69 Stat. 22) does not apply to any person who is retired, or to whom retired pay, retirement pay, retainer pay, or equivalent pay (including temporary disability retired pay) is granted, on or after the effective date of this Act [June 1, 1958].”

Pub. L. 85-855, §1(b), Aug. 28, 1958, 72 Stat. 1104, provided that the amendment of section 4(a) of Pub. L. 85-422, which eliminated the words “and persons with two or less years of service for basic pay purposes who were retired for physical disability or placed on the temporary disability retired list” preceding “members and former members” should be effective June 1, 1958.

PUBLIC HEALTH SERVICE

Authority vested by this chapter in “military departments”, “the Secretary concerned”, or “the Secretary of Defense” to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in “military departments”, “the Secretary concerned”, or “the Secretary of Defense” to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary’s designee, see section 3071 of Title 33, Navigation and Navigable Waters.

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

(a) PROHIBITION ON RECOMPUTATION TO REFLECT INCREASES IN BASIC PAY.—Unless otherwise specifically provided by law, the retired pay of a member or former member of an armed force may not be recomputed to reflect any increase in the rates of basic pay for members of the armed forces.

(b) COST-OF-LIVING ADJUSTMENTS BASED ON CPI INCREASES.—

(1) INCREASE REQUIRED.—Effective on December 1 of each year, the Secretary of Defense shall increase the retired pay of members and former members entitled to that pay in accordance with paragraphs (2) and (3).

(2) PERCENTAGE INCREASE.—Except as otherwise provided in this subsection, the Secretary shall increase the retired pay of each member and former member by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

(A) the price index for the base quarter of that year, exceeds

(B) the base index.

(3) REDUCED PERCENTAGE FOR CERTAIN POST-AUGUST 1, 1986 MEMBERS.—If the percent determined under paragraph (2) is greater than 1 percent, the Secretary shall increase the retired pay of each member and former member who first became a member on or after August 1, 1986, and has elected to receive a bonus under section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354 of title 37, by the difference between—

- (A) the percent determined under paragraph (2); and
- (B) 1 percent.

(4) SPECIAL RULE FOR PARAGRAPH (3).—If in any case in which an increase in retired pay that would otherwise be made under paragraph (3) is not made by reason of law (other than any provision of this section), then (unless otherwise provided by law) when the next increase in retired pay is made under this subsection, the increase under paragraph (3) shall be carried out so as to achieve the same net increase in retired pay under that paragraph that would have been the case if that law had not been enacted.

(5) ADJUSTMENTS FOR PARTICIPANTS IN MODERNIZED RETIREMENT SYSTEM.—Notwithstanding paragraph (3), if a member or former member participates in the modernized retirement system by reason of section 1409(b)(4) of this title (including pursuant to an election under subparagraph (B) of that section), the Secretary shall increase the retired pay of such member in accordance with paragraph (2).

(6) REGULATIONS.—Any increase in retired pay under this subsection shall be made in accordance with regulations prescribed by the Secretary of Defense.

(c) FIRST COLA ADJUSTMENT FOR MEMBERS WITH RETIRED PAY COMPUTED USING FINAL BASIC PAY.—

(1) FIRST ADJUSTMENT WITH INTERVENING INCREASE IN BASIC PAY.—Notwithstanding subsection (b) but subject to subsection (f)(3), if a person described in paragraph (3) becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

- (A) the price index for the base quarter of that year, exceeds
- (B) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

(2) FIRST ADJUSTMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a person described in paragraph (3) becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased (subject to subsection (f)(3) as applied to other members whose retired pay is computed on the current rates of basic pay in the most recent adjustment under this section), effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

- (A) the base index, exceeds
- (B) the price index for the calendar quarter immediately before the calendar quarter in

which the rates of monthly basic pay on which the retired pay is based became effective.

(3) MEMBERS COVERED.—Paragraphs (1) and (2) apply to a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, and whose retired pay base is determined under section 1406 of this title.

(d) FIRST COLA ADJUSTMENT FOR MEMBERS WITH RETIRED PAY COMPUTED USING HIGH-THREE.—Notwithstanding subsection (b) but subject to subsection (f)(3), the retired pay of a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, or on or after August 1, 1986, if the member or former member did not elect to receive a bonus under section 322 (as in effect before January 28, 2008) or section 354 of title 37 and whose retired pay base is determined under section 1407 of this title shall be increased on the effective date of the first adjustment of retired pay under subsection (b) after the member or former member becomes entitled to retired pay by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between the percent by which—

- (1) the price index for the base quarter of that year, exceeds
- (2) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay.

(e) PRO RATING OF INITIAL ADJUSTMENT.—Notwithstanding subsection (b) but subject to subsection (f)(3), the retired pay of a member or former member of an armed force who first became a member of a uniformed service on or after August 1, 1986, and elected to receive a bonus under section 322 (as in effect before January 28, 2008) or section 354 of title 37 shall be increased on the effective date of the first adjustment of retired pay under subsection (b) after the member or former member becomes entitled to retired pay by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between—

- (1) the percent by which—
 - (A) the price index for the base quarter of that year, exceeds
 - (B) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay; and
- (2) one-fourth of 1 percent for each calendar quarter from the quarter described in paragraph (1)(B) to the quarter described in paragraph (1)(A).

If in any case the percent described in paragraph (2) exceeds the percent determined under paragraph (1), such an increase shall not be made.

(f) PREVENTION OF PAY INVERSIONS.—

(1) PREVENTION OF RETIRED PAY INVERSIONS FOR MEMBERS WITH RETIRED PAY COMPUTED USING FINAL BASIC PAY.—The monthly retired pay of a member or a former member of an armed force who first became a member of a uniformed service before September 8, 1980, and who initially became entitled to that pay

on or after January 1, 1971, may not be less than the monthly retired pay to which he would be entitled if he had become entitled to retired pay at an earlier date based on the grade in which the member is retired, adjusted to reflect any applicable increases in such pay under this section. In computing the amount of retired pay to which such a member or former member would have been entitled on that earlier date, the computation shall be based on his grade, length of service, and the rate of basic pay applicable to him at that time, except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired. This subsection does not authorize any increase in the monthly retired pay to which a member was entitled for any period before October 7, 1975.

(2) PREVENTION OF RETIRED PAY INVERSIONS FOR MEMBERS WITH RETIRED PAY COMPUTED USING HIGH-THREE.—Subject to subsections (d) and (e), the monthly retired pay of a member or former member of an armed force who first became a member of a uniformed service on or after September 8, 1980, may not be less, on the date on which the member or former member initially becomes entitled to such pay, than the monthly retired pay to which the member or former member would be entitled on that date if the member or former member had become entitled to retired pay on an earlier date, adjusted to reflect any applicable increases in such pay under this section. However, in the case of a member or former member whose retired pay is computed subject to section 1407(f) of this title, paragraph (1) (rather than the preceding sentence) shall apply in the same manner as if the member or former member first became a member of a uniformed service before September 8, 1980, but only with respect to a calculation as of the date on which the member or former member first became entitled to retired pay.

(3) PREVENTION OF COLA INVERSIONS.—The percentage of the first adjustment under this section in the retired pay of any person, as determined under subsection (c)(1), (c)(2), (d), or (e), may not exceed the percentage increase in retired pay determined under subsection (b)(2) that is effective on the same date as the effective date of such first adjustment.

(g) DEFINITIONS.—In this section:

(1) The term “price index” means the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

(2) The term “base quarter” means the calendar quarter ending on September 30 of each year.

(3) The term “base index” means the price index for the base quarter for the most recent adjustment under subsection (b).

(4) The term “retired pay” includes retainer pay.

(h) PRICE INDEX FOR A QUARTER.—For purposes of this section, the price index for a calendar quarter is the arithmetical mean of the price index for the three months comprising that quarter.

(Added Pub. L. 88-132, §5(g)(1), Oct. 2, 1963, 77 Stat. 213; amended Pub. L. 89-132, §5(b), Aug. 21, 1965, 79 Stat. 547; Pub. L. 90-207, §2(a)(1), Dec. 16, 1967, 81 Stat. 652; Pub. L. 91-179, §1, Dec. 30, 1969, 83 Stat. 837; Pub. L. 94-106, title VIII, §806, Oct. 7, 1975, 89 Stat. 538; Pub. L. 94-361, title VIII, §801(a), July 14, 1976, 90 Stat. 929; Pub. L. 94-440, title XIII, §1306(d)(1), Oct. 1, 1976, 90 Stat. 1462; Pub. L. 96-342, title VIII, §812(b)(1), Sept. 8, 1980, 94 Stat. 1098; Pub. L. 98-94, title IX, §§921(a)(1), (b), 922(a)(2), Sept. 24, 1983, 97 Stat. 640, 641; Pub. L. 98-525, title XIV, §1405(26), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 99-348, title I, §102, July 1, 1986, 100 Stat. 683; Pub. L. 100-180, div. A, title XII, §1231(21), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 100-224, §1, Dec. 30, 1987, 101 Stat. 1536; Pub. L. 100-456, div. A, title VI, §622(a), Sept. 29, 1988, 102 Stat. 1983; Pub. L. 101-189, div. A, title VI, §651(b)(1), Nov. 29, 1989, 103 Stat. 1460; Pub. L. 103-66, title II, §2001, Aug. 10, 1993, 107 Stat. 335; Pub. L. 103-160, div. A, title XI, §1182(e), Nov. 30, 1993, 107 Stat. 1773; Pub. L. 103-335, title VIII, §8114A(b)(1), Sept. 30, 1994, 108 Stat. 2648; Pub. L. 103-337, div. A, title VI, §633(a), Oct. 5, 1994, 108 Stat. 2787; Pub. L. 104-106, div. A, title VI, §631(a), (c), Feb. 10, 1996, 110 Stat. 364, 365; Pub. L. 104-201, div. A, title VI, §§631(a), 632(a), Sept. 23, 1996, 110 Stat. 2549; Pub. L. 106-65, div. A, title VI, §§641(b), 643(b)(1), title X, §1066(a)(10), Oct. 5, 1999, 113 Stat. 662, 663, 771; Pub. L. 107-314, div. A, title VI, §633, Dec. 2, 2002, 116 Stat. 2572; Pub. L. 110-181, div. A, title VI, §661(b)(3), Jan. 28, 2008, 122 Stat. 178; Pub. L. 113-66, div. A, title VI, §631(a), (b), title X, §1091(a)(9), Dec. 26, 2013, 127 Stat. 785, 876; Pub. L. 113-67, div. A, title IV, §403(a), Dec. 26, 2013, 127 Stat. 1186; Pub. L. 113-76, div. C, title X, §10001(a), (b)(3), Jan. 17, 2014, 128 Stat. 151; Pub. L. 113-82, §2(a), Feb. 15, 2014, 128 Stat. 1009; Pub. L. 113-291, div. A, title VI, §623, Dec. 19, 2014, 128 Stat. 3403; Pub. L. 114-92, div. A, title VI, §631(c)(1)(B), (d), Nov. 25, 2015, 129 Stat. 844, 845.)

Editorial Notes

REFERENCES IN TEXT

Section 322 of title 37 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008), referred to in subsec. (b)(3), and section 322 of title 37 (as in effect before January 28, 2008), referred to in subsections (d) and (e), mean section 322 of title 37 as in effect before enactment of Pub. L. 110-181 on January 28, 2008. Section 322 of title 37 was renumbered as section 354 of title 37 and amended by Pub. L. 110-181, div. A, title VI, §661(b)(1), (2), Jan. 28, 2008, 122 Stat. 178.

AMENDMENTS

2015—Pub. L. 114-92, §631(d), which was approved Nov. 25, 2015, provided that the amendments made by Pub. L. 113-67, §403(a)—as amended by Pub. L. 113-76, §10001(a), Pub. L. 113-82, §2(a), and Pub. L. 113-291, §623—and the amendments made by Pub. L. 113-76, §10001(b)(3), which were effective Dec. 1, 2015, would not take effect. See 2013 and 2014 Amendment and Repeal of Reduced Cost-of-living Adjustments for Members Under the Age of 62 notes below.

Subsec. (b)(5), (6). Pub. L. 114-92, §631(c)(1)(B), added par. (5) and redesignated former par. (5) as (6).

2014—Subsec. (b)(4)(A). Pub. L. 113-76, §10001(a)(1), which directed insertion of “(other than a member or former member retired under chapter 61 of this title)” after “age”, did not take effect pursuant to Pub. L. 114-92, §631(d). See 2015 Amendment note above.

Subsec. (b)(4)(F). Pub. L. 113-76, § 10001(a)(2), which directed addition of subpar. (F) related to inapplicability to amount of retired pay used in computation of SBP annuity for survivors, did not take effect pursuant to Pub. L. 114-92, § 631(d). See 2015 Amendment note above.

Subsec. (b)(4)(G). Pub. L. 113-291, § 623, which directed substitution of “January 1, 2016” for “January 1, 2014”, did not take effect pursuant to Pub. L. 114-92, § 631(d). See 2015 Amendment note above.

Pub. L. 113-82, § 2(a), which directed addition of subpar. (G) related to applicability of subsec. (b)(4) to certain members and former members, did not take effect pursuant to Pub. L. 114-92, § 631(d). See 2015 Amendment note above.

Subsec. (f)(3). Pub. L. 113-76, § 10001(b)(3), which directed insertion of “or subsection (b)(4)” after “subsection (b)(2)” in par. (2) (probably intending par. (3)), did not take effect pursuant to Pub. L. 114-92, § 631(d). See 2015 Amendment note above.

2013—Subsec. (b)(1). Pub. L. 113-67, § 403(a)(1), which directed substitution of “paragraph (2), (3), or (4)” for “paragraphs (2) and (3)”, did not take effect pursuant to Pub. L. 114-92, § 631(d). See 2015 Amendment note above.

Subsec. (b)(4) to (6). Pub. L. 113-67, § 403(a)(2), (3), which directed addition of par. (4) related to a reduced percentage for retired members under age 62 and redesignation of pars. (4) and (5) as (5) and (6), respectively, did not take effect pursuant to Pub. L. 114-92, § 631(d). See 2015 Amendment note above.

Subsec. (c)(1), (2). Pub. L. 113-66, § 631(b), substituted “subsection (f)(3)” for “subsection (f)(2)” in introductory provisions.

Subsecs. (d), (e). Pub. L. 113-66, § 1091(a)(9), substituted “before January 28, 2008” for “before the enactment of the National Defense Authorization Act for Fiscal Year 2008” in introductory provisions.

Pub. L. 113-66, § 631(b), substituted “subsection (f)(3)” for “subsection (f)(2)” in introductory provisions.

Subsec. (f)(1). Pub. L. 113-66, § 631(a)(1), substituted “PREVENTION OF RETIRED PAY INVERSIONS FOR MEMBERS WITH RETIRED PAY COMPUTED USING FINAL BASIC PAY.—The” for “PREVENTION OF RETIRED PAY INVERSIONS.—Notwithstanding any other provision of law, the” and inserted “who first became a member of a uniformed service before September 8, 1980, and” after “of an armed force”.

Subsec. (f)(2), (3). Pub. L. 113-66, § 631(a)(2), (3), added par. (2) and redesignated former par. (2) as (3).

2008—Subsecs. (b)(3), (d), (e). Pub. L. 110-181, in introductory provisions, substituted “section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354” for “section 322”.

2002—Subsec. (c)(1). Pub. L. 107-314, § 633(a)(1), inserted “but subject to subsection (f)(2)” after “Notwithstanding subsection (b)” in introductory provisions.

Subsec. (c)(2). Pub. L. 107-314, § 633(a)(2), inserted “(subject to subsection (f)(2) as applied to other members whose retired pay is computed on the current rates of basic pay in the most recent adjustment under this section)” after “shall be increased” in introductory provisions.

Subsec. (d). Pub. L. 107-314, § 633(a)(1), (b)(1), in introductory provisions, inserted “but subject to subsection (f)(2)” after “Notwithstanding subsection (b)” and “or on or after August 1, 1986, if the member or former member did not elect to receive a bonus under section 322 of title 37” after “August 1, 1986.”

Subsec. (e). Pub. L. 107-314, § 633(a)(1), (b)(2), in introductory provisions, inserted “but subject to subsection (f)(2)” after “Notwithstanding subsection (b)” and “and elected to receive a bonus under section 322 of title 37” after “August 1, 1986.”

Subsec. (f). Pub. L. 107-314, § 633(a)(3), designated existing provisions as par. (1), inserted par. heading, realigned margins, and added par. (2).

1999—Subsec. (b)(1). Pub. L. 106-65, § 643(b)(1)(A), substituted “INCREASE REQUIRED” for “IN GENERAL” in heading.

Subsec. (b)(2). Pub. L. 106-65, § 1066(a)(10), struck out subpar. (A) designation and heading “GENERAL RULE”, redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and realigned their margins, and struck out former subpars. (B) and (C) which read as follows:

“(B) SPECIAL RULE FOR FISCAL YEAR 1996.—In the case of the increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1995, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1996.

“(C) INAPPLICABILITY TO DISABILITY RETIREES.—Subparagraph (B) does not apply with respect to the retired pay of a member retired under chapter 61 of this title.”

Pub. L. 106-65, § 643(b)(1)(B), substituted “PERCENTAGE INCREASE” for “PRE-AUGUST 1, 1986 MEMBERS” in heading.

Pub. L. 106-65, § 641(b)(1), substituted “Except as otherwise provided in this subsection, the Secretary shall increase the retired pay of each member and former member” for “The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986.”

Subsec. (b)(3). Pub. L. 106-65, § 643(b)(1)(C), substituted “REDUCED PERCENTAGE FOR CERTAIN POST-AUGUST 1, 1986 MEMBERS” for “POST-AUGUST 1, 1986 MEMBERS” in heading.

Pub. L. 106-65, § 641(b)(2), inserted “and has elected to receive a bonus under section 322 of title 37,” after “August 1, 1986.”

1996—Subsec. (b)(2)(B). Pub. L. 104-201, § 631(a), substituted “SPECIAL RULE FOR FISCAL YEAR 1996” for “SPECIAL RULES FOR FISCAL YEARS 1996 AND 1998” as subpar. heading, struck out cl. (i) designation and heading “FISCAL YEAR 1996” before “In the case of”, and struck out cl. (ii) which read as follows: “FISCAL YEAR 1998.—In the case of the increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September 1998.”

Pub. L. 104-106, § 631(c), repealed Pub. L. 103-335, § 8114A(b)(1). See 1994 Amendment note below.

Pub. L. 104-106, § 631(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “SPECIAL RULES FOR FISCAL YEARS 1994 THROUGH 1998.—

“(i) FISCAL YEAR 1994.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1993, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1994.

“(ii) FISCAL YEARS 1995 THROUGH 1998.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1 of 1994, 1995, 1996, or 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September of the following year.”

Subsec. (c). Pub. L. 104-201, § 632(a), added subsec. (c) and struck out former subsec. (c) which read as follows:

“RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH INTERVENING INCREASE IN BASIC PAY.—Notwithstanding subsection (b), if a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

“(1) the price index for the base quarter of that year, exceeds

“(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.”

Subsec. (d). Pub. L. 104-201, § 632(a), added subsec. (d) and struck out former subsec. (d) which read as follows:

“RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased, effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

“(1) the base index, exceeds

“(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.”

1994—Subsec. (b)(2)(B). Pub. L. 103-335, § 8114A(b)(1), which directed substituting, in heading, “through 1996” for “through 1998” and substituting, in cl. (ii), “and 1996” for “through 1998”, “of 1994 or 1995” for “of 1994, 1995, 1996, or 1997”, and “March” for “September”, was repealed by Pub. L. 104-106, § 631(c).

Subsec. (f). Pub. L. 103-337 inserted “based on the grade in which the member is retired” after “at an earlier date” in first sentence and “, except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired” before period at end of second sentence and struck out after second sentence “However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member is retired.”

1993—Subsec. (b)(2). Pub. L. 103-160, § 1182(e)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Except as provided in paragraph (6), the Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

“(A) the price index for the base quarter of that year, exceeds

“(B) the base index.”

Pub. L. 103-66, § 2001(1), substituted “Except as provided in paragraph (6), the Secretary” for “The Secretary”.

Subsec. (b)(6). Pub. L. 103-160, § 1182(e)(2), struck out par. (6) which read as follows: “SPECIAL RULES FOR PARAGRAPH (2) FOR FISCAL YEARS 1994 THROUGH 1998.—

“(A) FISCAL YEAR 1994.—In the case of an increase in the retired pay of a member or former member referred to in paragraph (2) that, pursuant to paragraph (1), becomes effective on December 1, 1993, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1994.

“(B) FISCAL YEARS 1995 THROUGH 1998.—In the case of an increase in retired pay of a member or former member referred to in paragraph (2) that, pursuant to paragraph (1), becomes effective on December 1 of 1994, 1995, 1996, or 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September of the following year.

“(C) INAPPLICABILITY TO DISABILITY RETIREES.—Subparagraphs (A) and (B) do not apply with respect to the retired pay of a member retired under chapter 61 of this title.”

Pub. L. 103-66, § 2001(2), added par. (6).

1989—Subsec. (b)(3). Pub. L. 101-189, § 651(b)(1)(A), inserted “and former member” after first reference to “member”.

Subsec. (e). Pub. L. 101-189, § 651(b)(1)(B), inserted “or former member” after first and third reference to “member”.

Subsec. (f). Pub. L. 101-189, § 651(b)(1)(C), inserted “or former member” after “member” in second sentence.

1988—Subsec. (f). Pub. L. 100-456 inserted after second sentence “However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member is retired.”

1987—Subsec. (a). Pub. L. 100-180 struck out “pay” after “the retired pay”.

Subsec. (b)(4), (5). Pub. L. 100-224, § 1(a), added par. (4) and redesignated former par. (4) as (5).

Subsec. (e). Pub. L. 100-224, § 1(b), substituted “by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between—

“(1) the percent by which—

“(A) the price index for the base quarter of that year, exceeds

“(B) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay; and

“(2) one-fourth of 1 percent for each calendar quarter from the quarter described in paragraph (1)(B) to the quarter described in paragraph (1)(A).

If in any case the percent described in paragraph (2) exceeds the percent determined under paragraph (1), such an increase shall not be made.” for “only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

“(1) the price index for the base quarter of that year, exceeds

“(2) the price index for the calendar quarter immediately before the calendar quarter in which the member became entitled to retired pay.”

1986—Subsec. (a). Pub. L. 99-348, § 102(b)(1), (c)(1), inserted heading, struck out “or retainer” after “retired pay”, and struck out sentence defining “Index” in this section as meaning the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

Subsecs. (b) to (d). Pub. L. 99-348, § 102(a), added subsecs. (b) to (d) and struck out former subsecs. (b) to (d) which read as follows:

“(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time increase the retired and retainer pay of members and former members of the armed forces by the same percent as the percentage by which annuities are increased under such section.

“(c) Notwithstanding subsection (b), if a member or former member of an armed force becomes entitled to retired pay or retainer pay based on rates of monthly basic pay prescribed by section 203 of title 37 that became effective after the last day of the month of the base index, his retired pay or retainer pay shall be increased on the effective date of the next adjustment of retired pay and retainer pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) that the new base index exceeds the index for the calendar month immediately before that in which the rates of monthly basic pay on which his retired pay or retainer pay is based became effective.

“(d) If a member or former member of an armed force becomes entitled to retired pay or retainer pay on or after the effective date of an adjustment of retired pay and retainer pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay prescribed by section 203 of title 37, his retired pay or retainer pay shall be increased, effective on the date he becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) that the base index exceeds the index for the calendar month immediately before that in which the rates of monthly basic pay on which his retired pay or retainer pay is based became effective.”

Subsec. (e). Pub. L. 99-348, § 102(a), added subsec. (e).

Subsec. (f). Pub. L. 99-348, § 102(c)(2), inserted heading and struck out “or retainer” after “retired” wherever appearing.

Subsecs. (g), (h). Pub. L. 99-348, § 102(b)(2), added subsecs. (g) and (h) and struck out former subsec. (g) which

provided that the retired or retainer pay of a member or former member of an armed force as adjusted under this section, if not a multiple of \$1, would be rounded to the next lower multiple of \$1.

1984—Subsec. (f). Pub. L. 98-525 substituted “before October 7, 1975” for “prior to the effective date of this subsection”.

1983—Subsec. (e). Pub. L. 98-94, §921(a)(1), struck out subsec. (e) which provided that: “Notwithstanding subsections (c) and (d), the adjusted retired pay or retainer pay of a member or former member of an armed force retired on or after October 1, 1967, may not be less than it would have been had he become entitled to retired pay or retainer pay based on the same pay grade, years of service for pay, years of service for retired or retainer pay purposes, and percent of disability, if any, on the day before the effective date of the rates of monthly basic pay on which his retired pay or retainer pay is based.”

Subsec. (f). Pub. L. 98-94, §921(b), struck out “, subject to subsection (e) of this section,” after “the computation shall”.

Subsec. (g). Pub. L. 98-94, §922(a)(2), added subsec. (g).

1980—Subsec. (b). Pub. L. 96-342 substituted provisions directing the Secretary of Defense to increase the retired and retainer pay of members and former members of the armed forces each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of title 5, with such increase to be by the same percent as the percentage by which the annuities are increased for provisions under which the Secretary of Defense had been authorized and directed to increase the retired pay and retainer pay of members and former members of the armed forces on March 1 and September 1 depending upon determinations which the Secretary was directed to make on January 1 and July 1 of each year with regards to the percentage change in the index published for June or December of the previous year.

1976—Subsec. (b). Pub. L. 94-440 substituted provisions that Secretary of Defense shall determine the percent change in the index on Jan. 1 and July 1 of each year and effective Mar. 1 and Sept. 1, retired and retainer pay shall be increased by the computed percent change adjusted to the nearest $\frac{1}{10}$ of 1 percent, for provisions that the Secretary of Defense shall determine on a monthly basis the percent by which the index has increased over that used as a basis for the most recent adjustment of retired and retainer pay and if Secretary determines for 3 consecutive months that the amount of increase is at least 3 percent over the base index, retired and retainer pay shall be increased by adding 1 percent and the highest percent increase in the index during those months adjusted to the nearest $\frac{1}{10}$ of 1 percent.

Pub. L. 94-361 struck out “the per centum obtained by adding 1 per centum and” before “the highest per centum of increase in the index”.

1975—Subsec. (f). Pub. L. 94-106 added subsec. (f).

1969—Subsec. (b). Pub. L. 91-179 provided for a 1 percent addition in computing increases in retired and retainer pay of present and former members of the armed forces, whenever the Secretary made such adjustments to effect increases in the consumer index over the base index.

1967—Subsec. (a). Pub. L. 90-207 substituted “may not be recomputed” for “shall not be recomputed”, struck out “if that increase becomes effective after the effective date of this section” after “armed forces” and inserted sentence defining “Index”.

Subsec. (b). Pub. L. 90-207 revised subsec. (b) generally and, among other changes, substituted provisions requiring the Secretary of Defense to determine monthly the percent by which the index has increased over that used as the basis for the most recent adjustment of retired and retainer pay under this subsection for provisions which required the Secretary of Defense to determine the per centum that the index for each calendar month after the calendar month immediately preceding the effective date of Pub. L. 89-132 has in-

creased over the base index (that for the calendar month immediately preceding the effective date of Pub. L. 89-132 or, if later, that used as the basis for the most recent adjustment of retired and retainer pay under this subsection).

Subsecs. (c) to (e). Pub. L. 90-207 added subsecs. (c) to (e).

1965—Subsec. (b). Pub. L. 89-132 substituted provisions requiring the Secretary of Defense to determine the per centum for each calendar month that the Consumer Price Index has increased over the base Consumer Price Index, and if the index has shown an increase of at least 3 per centum over the base index for three consecutive calendar months to increase the retired or retainer pay by the highest per centum of increase in the index, for provisions which required a determination of the increase over the preceding calendar year and permitted an increase in the retired or retainer pay if the index advanced 3 per centum or more for a full calendar year.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by section 631(c)(1)(B) of Pub. L. 114-92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114-92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-82, §2(b), Feb. 15, 2014, 128 Stat. 1009, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on December 1, 2015, immediately after the coming into effect of section 403 of the Bipartisan Budget Act of 2013 [section 403 of Pub. L. 113-67, amending this section and section 1410 of this title and enacting provisions set out as a note under this section] and the amendments made by that section.”

[Amendment made by Pub. L. 113-82, §2(a), did not take effect pursuant to Pub. L. 114-92, §631(d), set out below.]

Pub. L. 113-76, div. C, title X, §10001(c), Jan. 17, 2014, 128 Stat. 151, provided that: “The amendments made by subsections (a) and (b) [amending this section and sections 1413a and 1414 of this title] shall take effect on December 1, 2015, immediately after the coming into effect of section 403 of the Bipartisan Budget Act of 2013 [section 403 of Pub. L. 113-67, amending this section and section 1410 of this title and enacting provisions set out as a note under this section] and the amendments made by that section.”

[Amendments made by Pub. L. 113-76, §10001(a), (b), did not take effect pursuant to Pub. L. 114-92, §631(d), set out below.]

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113-67, div. A, title IV, §403(c), Dec. 26, 2013, 127 Stat. 1186, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1410 of this title] shall take effect on December 1, 2015.”

[Amendments made by Pub. L. 113-67, §403(a), (b), did not take effect pursuant to Pub. L. 114-92, §631(d), set out below.]

Pub. L. 113-66, div. A, title VI, §631(c), Dec. 26, 2013, 127 Stat. 785, provided that: “Paragraph (2) of section 1401a(f) of title 10, United States Code, as added by the amendment made by subsection (a)(3), applies to the computation of retired pay or retainer pay of any person who first became a member of a uniformed service on or after September 8, 1980, regardless of when the member first becomes entitled to retired or retainer pay.”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title VI, §644, Oct. 5, 1999, 113 Stat. 664, provided that: “The amendments made by

sections 641, 642, and 643 [enacting section 322 of Title 37, Pay and Allowances of the Uniformed Services, and amending this section and sections 1409, 1410, 1451, and 1452 of this title] shall take effect on October 1, 1999.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title VI, § 632(b), Sept. 23, 1996, 110 Stat. 2550, provided that: “The amendment made by subsection (a) [amending this section] shall apply only to adjustments of retired and retainer pay effective after the date of the enactment of this Act [Sept. 23, 1996].”

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title VI, § 633(b), Oct. 5, 1994, 108 Stat. 2787, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to the computation of the retired pay of a member of the Armed Forces who retires on or after the date of the enactment of this Act [Oct. 5, 1994].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VI, § 622(b), Sept. 29, 1988, 102 Stat. 1983, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month that begins after the date of the enactment of this Act [Sept. 29, 1988] and shall apply to the computation of the retired or retainer pay of members who initially become entitled to such pay on or after such effective date.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title IX, § 921(a)(2), Sept. 24, 1983, 97 Stat. 640, provided that:

“(A) Notwithstanding the repeal of such subsection [subsec. (e) of this section], the provisions of such subsection shall apply in the case of any member or former member of the Armed Forces eligible to retire on the date of the enactment of this Act [Sept. 24, 1983] for a period of three years after such date in the same manner such provisions would have applied had they not been repealed.

“(B) The amount of retired or retainer pay of any member or former member of the Armed Forces who was eligible to retire on the date of the enactment of this Act [Sept. 24, 1983] and who becomes entitled to such pay at any time after the end of the three-year period beginning on the date of the enactment of this Act may not be less than it would have been had he become entitled to retired or retainer pay on the day before the end of such three-year period.”

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–342, title VIII, § 812(b)(1), Sept. 8, 1980, 94 Stat. 1098, set out below, provided that the amendment made by that section is effective Aug. 31, 1981, but subject to certain conditions.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–440, title XIII, § 1306(d)(2), Oct. 1, 1976, 90 Stat. 1463, provided that: “The amendment made by subsection (1) [amending this section] shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act [Oct. 1, 1976], except that with respect to the first date after the date of enactment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code [subsec. (b) of this section], as in effect immediately prior to the date of enactment of this Act [Oct. 1, 1976].”

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91–179, § 2, Dec. 30, 1969, 83 Stat. 837, provided that: “The provisions of this Act [amending this section] become effective on October 31, 1969.”

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–132 effective Sept. 1, 1965, see section 10 of Pub. L. 89–132, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as an Effective Date of 1963 Amendment note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

REPEAL OF REDUCED COST-OF-LIVING ADJUSTMENTS FOR MEMBERS UNDER THE AGE OF 62

Pub. L. 114–92, div. A, title VI, § 631(d), Nov. 25, 2015, 129 Stat. 845, provided that: “The following amendments shall not take effect:

“(1) The amendments to be made by section 403 of the Bipartisan Budget Act of 2013 (Public Law 113–67; 127 Stat. 1186) [amending this section and section 1410 of this title], as amended by section 10001(a) of the Department of Defense Appropriations Act, 2014 (division C of Public Law 113–76; 128 Stat. 151), section 2 of Public Law 113–82 (128 Stat. 1009), and section 623 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3403).

“(2) The amendments to be made by section 10001(b) of the Department of Defense Appropriations Act, 2014 [div. C of Pub. L. 113–76, amending this section and sections 1413a and 1414 of this title].”

CONTINGENT ALTERNATIVE DATE FOR FISCAL YEAR 1998

Pub. L. 104–106, div. A, title VI, § 631(b), Feb. 10, 1996, 110 Stat. 364, provided that if a civil service retiree COLA that becomes effective during fiscal year 1998 becomes effective on a date other than the date on which a military retiree COLA during that fiscal year is specified to become effective under subsec. (b)(2)(B) of this section, then the increase in military retired and retainer pay would become payable as part of such retired and retainer pay effective on the same date on which such civil service retiree COLA was to become effective, prior to repeal by Pub. L. 104–201, div. A, title VI, § 631(b), Sept. 23, 1996, 110 Stat. 2549.

ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995

Pub. L. 103–337, div. A, title VI, § 631, Oct. 5, 1994, 108 Stat. 2785, provided that:

“(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

“(b) DEFINITIONS.—For the purposes of subsection (a):

“(1) The term ‘fiscal year 1995 increase in military retired pay’ means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

“(2) The term ‘retired pay’ includes retainer pay.

“(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal

year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of \$376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).”

SENSE OF CONGRESS ON EQUAL TREATMENT OF EFFECTIVE DATES FOR FUTURE COST-OF-LIVING ADJUSTMENTS FOR MILITARY AND CIVILIAN RETIREES

Pub. L. 103-337, div. A, title VI, §632, Oct. 5, 1994, 108 Stat. 2786, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) Congress, in the Omnibus Budget Reconciliation Act of 1993 [Pub. L. 103-66, see Tables for classification], changed the effective dates 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 payable for the earlier of the two months.”

WAIVER OF ADMINISTRATIVE TIME-IN-GRADE REQUIREMENTS TO PREVENT PAY INVERSIONS IN RETIRED PAY OF CERTAIN MILITARY RETIREES

Pub. L. 103-337, div. A, title VI, §634, Oct. 5, 1994, 108 Stat. 2787, provided that:

“(a) AUTHORITY.—The Secretary concerned may, for purposes of the computation under section 1401a(f) of title 10, United States Code, of the retired pay of military retirees described in subsection (b), waive any administrative time-in-grade regulation (as described in subsection (d)) that would otherwise apply to such computation. Any such waiver may be made retroactive, in the case of any such retiree, to the date on which that retiree initially became entitled to retired pay.

“(b) COVERED RETIREES.—This section applies to any military retiree—

“(1) who initially became entitled to retired pay on or after January 1, 1971, and before the date of the enactment of this Act [Oct. 5, 1994];

“(2) whose retired pay, by reason of the provisions of section 1401a(f) of title 10, United States Code (the so-called ‘Tower amendment’), was initially computed as an amount greater than would have been the case but for that section; and

“(3) who, as of the earlier computation date applicable to that retiree—

“(A) in the case of an individual retired in an enlisted grade, had served in the grade in which the retiree retired for a period that was less than the period prescribed by the applicable administrative time-in-grade requirement described in subsection (d); and

“(B) in the case of an individual retired in an officer grade—

“(i) was subject to an administrative time-in-grade requirement described in subsection (d) that established a time-in-grade requirement that was longer than the statutory time-in-grade requirement applicable to that member; and

“(ii) had served in the grade in which the retiree retired for a period that was less than the period prescribed by such administrative time-in-grade requirement but not less than the statutory time-in-grade requirement applicable to that member.

“(c) EARLIER COMPUTATION DATE.—For purposes of subsection (b)(3), the earlier computation date applicable to a military retiree is the date that (under such section 1401a(f) as in effect on the date of the member’s retirement) was the ‘earlier date’ that was used as the basis for the computation of the retiree’s retired pay.

“(d) REGULATIONS SUBJECT TO WAIVER.—A regulation that may be waived under subsection (a) is any regulation (not required by law) that establishes a minimum period of time that a member of the Armed Forces must have served in a grade on active duty in order to be eligible to retire in that grade.

“(e) SCOPE OF WAIVER AUTHORITY.—The Secretary concerned may exercise the authority provided in subsection (a) in the case of an individual military retiree or for any group of military retirees.

“(f) MILITARY RETIREE DEFINED.—For purposes of this section, the term ‘military retiree’ means a member or former member of the Armed Forces who is entitled to retired pay.

“(g) SECRETARY CONCERNED.—For purposes of this section, the term ‘Secretary concerned’ has the meaning given such term in section 101 of title 10, United States Code.”

FISCAL YEAR 1995 COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES

Pub. L. 103-335, title VIII, §8114A, Sept. 30, 1994, 108 Stat. 2648, as amended by Pub. L. 104-106, div. A, title VI, §631(c), Feb. 10, 1996, 110 Stat. 365, provided that:

“(a) FISCAL YEAR 1995 COST-OF-LIVING ADJUSTMENT FOR MILITARY RETIREES.—(1) The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

“(2) For the purposes of subsection (a):

“(A) The term ‘fiscal year 1995 increase in military retired pay’ means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

“(B) The term ‘retired pay’ includes retainer pay.

“(b) [Repealed. Pub. L. 104-106, div. A, title VI, §631(c), Feb. 10, 1996, 110 Stat. 365.]”

CONTINGENT ONCE-A-YEAR ADJUSTMENT OF RETIRED AND RETAINER PAY

Pub. L. 96-342, title VIII, §812, Sept. 8, 1980, 94 Stat. 1098, as amended by Pub. L. 97-35, title II, §211(b), Aug. 13, 1981, 95 Stat. 383, provided that:

“(a)(1) The increase in the retired and retainer pay of members and former members of the uniformed serv-

ices which but for this section would be made effective September 1, 1980, under the provisions of paragraph (2)(B) of section 1401a(b) of title 10, United States Code, shall not be made.

“(2)(A) In making the determination required by the provisions of paragraph (1)(A) of section 1401a(b) of title 10, United States Code, to be made on January 1, 1981, or within a reasonable time thereafter, the Secretary of Defense shall determine the percent change in the index (as such term is defined in section 1401a(a) of title 10, United States Code) published for December 1980 over the index published for December 1979 (rather than over the index published for June 1980).

“(B) The increase in the retired and retainer pay of members and former members of the uniformed services to be made effective March 1, 1981, under the provisions of paragraph (2)(A) of such section shall, in lieu of the increase prescribed by such paragraph, be the percent change computed under subparagraph (A), adjusted to the nearest $\frac{1}{10}$ of one percent.

“(3) The President shall by Executive order provide for only one cost-of-living adjustment in the annuities paid under the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees ([former] 50 U.S.C. 403 note) during the period beginning on September 1, 1980, and ending on August 31, 1981. Such adjustment shall be effective March 1, 1981, and shall be made in the same manner and percentage as the adjustment provided for in paragraphs (1) and (2) for the retired and retainer pay of members and former members of the uniformed services.

“(4) Paragraphs (1), (2), and (3) shall not take effect unless similar legislation is enacted which provides for only one cost-of-living increase in annuities paid under subchapter III of chapter 83 of title 5, United States Code, during the period beginning on September 1, 1980, and ending on August 31, 1981.

“(b)(1) Effective August 31, 1981, but subject to paragraph (2), section 1401a(b), of title 10, United States Code, relating to adjustment of retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

“(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time increase the retired and retainer pay of members and former members of the armed forces by the same percent as the percentage by which annuities are increased under such section.”

“(2) The amendment made by paragraph (1) shall not take effect unless legislation is enacted which provides for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the uniformed services at the same time that the legislation providing for such a once-a-year adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, becomes effective.

“(3) If legislation described in paragraph (2) is enacted to provide for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis, the President shall exercise the authority vested in him under section 292 of the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees ([former] 50 U.S.C. 403 note) to provide for cost-of-living adjustments in the annuities paid under such Act on an identical basis.

“(4) If at the time the first adjustment in retired and retainer pay is made under section 1401a(b) of title 10, United States Code, as amended by paragraph (1) of this subsection, the period upon which the most recent adjustment in such retired and retainer pay was computed is not identical to the period upon which the most recent adjustment in annuities under subchapter III of chapter 83 of title 5, United States Code, was computed, then the percentage increase to be made under

such section 1401a(b) at the time of the first such adjustment shall be computed in the same manner as the percentage increase made at the same time in annuities under subchapter III of chapter 83 of title 5, United States Code, is computed, but shall be based on the period beginning on the last day of the period upon which the most recent adjustment in such retired and retainer pay was computed and ending on the last day of the period upon which the adjustment being made at the same time in annuities under such subchapter III is computed. The President shall by Executive order provide for a similar computation of the adjustment in annuities paid under the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees ([former] 50 U.S.C. 403 note) which is made at the same time as the increase in retired and retainer pay to which the preceding [preceding] sentence is applicable.

“(c) For the purposes of this section, the term ‘uniformed services’ means—

“(1) the Armed Forces; and

“(2) the commissioned corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.”

COMPUTATION OF RETIRED PAY OF SERGEANT MAJORS OF MARINE CORPS WHO COMPLETED SERVICE PRIOR TO DECEMBER 16, 1967

Pub. L. 95-581, Nov. 2, 1978, 92 Stat. 2478, provided: “That (a) the retired pay of any individual who served as sergeant major of the Marine Corps and who completed such service before December 16, 1967, shall be computed based upon a rate of basic pay of the sum of (1) the highest rate of basic pay to which such individual was entitled while so serving, and (2) \$150.

“(b) For the purpose of computing any adjustment under section 1401a of title 10, United States Code, in the retired pay of any individual whose retired pay is affected by subsection (a), the rate of basic pay provided under such subsection for the purpose of computing the retired pay of such individual shall be considered to have been the rate of basic pay applicable to such individual at the time of his retirement, and any adjustment under such section 1401a in the retired pay of such individual before September 30, 1978, shall be re-adjusted to reflect such rate of basic pay.

“SEC. 2. (a) Any change in the retired pay of any individual by reason of the enactment of this Act shall be effective for months beginning after September 30, 1978.

“(b) The enactment of this Act shall not reduce the retired pay of any individual.”

[The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, referred to in Pub. L. 96-342, set out above, is Pub. L. 88-643, Oct. 13, 1964, 78 Stat. 1043, which was revised generally by Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196, is known as the Central Intelligence Agency Retirement Act and is classified generally to chapter 38 (§2001 et seq.) of Title 50, War and National Defense.]

COST-OF-LIVING ADJUSTMENT OF RETIRED PAY OR RETAINER PAY OF MEMBERS AND FORMER MEMBERS OF ARMED FORCES AND COMMISSIONED OFFICERS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND PUBLIC HEALTH SERVICE; EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-361, title VIII, §801(c), July 14, 1976, 90 Stat. 929, provided that:

“(1) The amendments made by subsections (a) [to subsection (b) of this section] and (b) [to provisions formerly set out as a note under section 403 of title 50] shall not become effective unless legislation is enacted repealing the so-called 1 per centum add-on provision applicable to the cost-of-living adjustment of annuities paid under chapter 83 of title 5, United States Code. In the event such legislation is enacted, such amendments shall become effective with respect to the cost-of-living adjustment of the retired pay and retainer pay of members and former members of the Armed Forces and the cost-of-living adjustment of annuities paid under the Cen-

tral Intelligence Agency [Retirement] Act of 1964 for Certain Employees at the same time the repeal of such 1 per centum add-on provision becomes effective with respect to such cost-of-living adjustment of annuities paid under such chapter 83.

“(2) If any change other than the repeal of the so-called 1 per centum add-on provision referred to in paragraph (1) is made in the method of computing the cost-of-living adjustment of annuities paid under chapter 83 of title 5, United States Code, the President shall make the same change in the cost-of-living adjustment of retired pay and retainer pay of members and former members of the Armed Forces and the cost-of-living adjustment of annuities paid under the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees. Any change made under this paragraph shall have the same effective date as the effective date applicable to such change made in annuities under chapter 83 of title 5, United States Code.

“(3) The provisions of paragraphs (1) and (2) relating to any change in the method of computing the cost-of-living adjustment of the retired pay or retainer pay of members and former members of the Armed Forces shall be applicable to the computation of cost-of-living adjustments of the retired pay of commissioned officers of the National Oceanic and Atmospheric Administration and the retired pay of commissioned officers of the Public Health Service.”

[The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, referred to in Pub. L. 94-361, set out above, is Pub. L. 88-643, Oct. 13, 1964, 78 Stat. 1043, which was revised generally by Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196, is known as the Central Intelligence Agency Retirement Act and is classified generally to chapter 38 (§2001 et seq.) of Title 50, War and National Defense.]

INCREASE IN CERTAIN ARMED FORCE MEMBERS' PAY AND ALLOWANCES NOT OTHERWISE TIED TO CONSUMER PRICE INDEX

Pub. L. 93-210, §2, Dec. 28, 1973, 87 Stat. 908, provided that:

“(a) Notwithstanding any other provision of law, effective on the date of enactment of this Act [Dec. 28, 1973], the pay and allowances of members of the Armed Forces to whom this Act applies shall be increased to amounts equal to the amounts such pay and allowances would have been increased if the pay and allowances of such members had been increased, under section 1401a(b) of title 10, United States Code, by the same percentage rates, consecutively compounded, that the retired pay or retainer pay of members and former members of the Armed Forces entitled to retired pay or retainer pay since October 1, 1967, has been increased, and such member shall, on and after the date of enactment of this Act [Dec. 28, 1973], have his pay and allowances increased effective the same day and by the same percentage rate that the retired pay or retainer pay of members and former members of the Armed Forces is increased under such section 1401a(b).

“(b) This section applies to members of the Armed Forces entitled to pay and allowances under either of the following provisions of law:

“(1) The Act of June 26, 1948, chapter 677 (62 Stat. 1052) [which authorized the appointment of one officer in the Regular Army in the permanent grade of general, one officer in the Regular Air Force in the permanent grade of general, and one officer in the Regular Navy in the permanent grade of admiral].

“(2) The Act of September 18, 1950, chapter 952 (64 Stat. A224) [which authorized the appointment of Omar N. Bradley to the permanent grade of General of the Army].

“(c) No amounts shall be paid, as the result of the enactment of this section, for any period prior to the date of enactment of this section [Dec. 28, 1973].”

RETROACTIVE ADJUSTMENT OF RETIRED OR RETAINER PAY OF PERSONS ENTITLED THERETO AFTER NOVEMBER 30, 1966, BUT PRIOR TO EFFECTIVE DATE OF NEXT INCREASE AFTER JULY 1, 1966

Pub. L. 90-207, §2(b), Dec. 16, 1967, 81 Stat. 653, provided that: “Notwithstanding section 1401a(d) of title 10, United States Code, a person who is a member or former member of an armed force on the date of enactment of this Act [Dec. 16, 1967] and who initially became, or hereafter initially becomes, entitled to retired pay or retainer pay after November 30, 1966, but before the effective date of the next increase after July 1, 1966, in the rates of monthly basic pay prescribed by section 203 of title 37, United States Code, is entitled to have his retired pay or retainer pay increased by 3.7 percent, effective as of the date of his entitlement to that pay.”

§ 1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980

(a) A member of an armed force who first became a member of a uniformed service before September 8, 1980, and 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 according to the following table.

Column 1 Take	Column 2 Multiply by
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.	2½ 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

¹ For a member who has been entitled, for 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 percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.

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