

“(b) INCREASES.—The Secretary may increase an OCONUS COLA at any time.

“(c) REPORTING.—Not later than February 1 of each year, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding reductions and increases to OCONUS COLAs during the previous calendar year. Such report shall include the following elements:

“(1) The areas outside the continental United States subject to such a reduction or increase.

“(2) The previous and new amounts of an adjusted OCONUS COLA for a member with three dependents, 10 years of service, and in grade—

“(A) E-6; and

“(B) O-4.

“(3) The number of OCONUS COLA index points by which a new OCONUS COLA index differs from such previous index.

“(4) The number of members of the uniformed services affected by each such reduction or increase.

“(5) The assessment of the Secretary of the calculation of an OCONUS COLA. In making such assessment, the Secretary shall consider factors including—

“(A) Costs of local transportation in the area surrounding the duty station of a member.

“(B) Costs of travel from such duty station to the United States.

“(C) Other costs the Secretary determines appropriate.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘continental United States’ has the meaning given such term in section 101 of title 37, United States Code.

“(2) The term ‘covered member’ means a member of the uniformed services—

“(A) who is assigned to a permanent duty station located outside the continental United States; or

“(B) whose dependents reside outside the continental United States but not within the vicinity to permanent duty station of such member.

“(3) The term ‘OCONUS COLA’ means a cost-of-living allowance paid to a member of the uniformed services on the basis that such member is a covered member.

“(4) The term ‘OCONUS COLA index’ means the index computed by the Secretary of the weighted average prices of goods and services (excluding housing costs) in a location outside the continental United States, relative to the weighted average of prices of the same goods and services in the continental United States.

“(5) The term ‘OCONUS COLA index point’ means 1 percent of the OCONUS COLA index for the weighted average prices of goods and services (excluding housing costs) in a location in the continental United States.”

#### CONDITIONS ON PROVISION OF ALLOWANCE

Pub. L. 103-337, div. A, title VI, § 602(b), Oct. 5, 1994, 108 Stat. 2781, provided that:

“(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2).

“(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other administering Secretaries (as defined in subsection (h)(6) [probably should be (i)(5)] of such section), shall submit to Congress a report describing—

“(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

“(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

“(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

“(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.”

[Report submitted by Secretary of Defense on Mar. 31, 1995.]

#### § 404. Renumbered § 474]

#### § 404a. Renumbered § 474a]

#### § 404b. Renumbered § 474b]

#### § 405. Travel and transportation allowances: per diem while on duty outside the continental United States

(a) PER DIEM AUTHORIZED.—Without regard to the monetary limitation of this title, the Secretary concerned may pay a per diem to a member of the uniformed services who is on duty outside of the continental United States, whether or not the member is in a travel status. The Secretary may pay the per diem in advance of the accrual of the per diem.

(b) DETERMINATION OF PER DIEM.—In determining the per diem to be paid under this section, the Secretary concerned shall consider all elements of the cost of living to members of the uniformed services under the Secretary’s jurisdiction and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses. However, dependents may not be considered in determining the per diem allowance for a member in a travel status.

(c) TREATMENT OF HOUSING COST AND ALLOWANCE.—Housing cost and allowance may be disregarded in prescribing a station cost of living allowance under this section.

(d) UNUSUAL OR EXTRAORDINARY EXPENSES.—(1) The Secretary concerned may reimburse a member of the uniformed services on duty as described in subsection (a) or (e) for an unusual or extraordinary expense incurred by the member incident to such duty that—

(A) is directly related to the conditions or location of the duty or the location of the member’s dependents;

(B) is of a nature or a magnitude not normally incurred by members of the uniformed services on duty inside the continental United States; and

(C) is not included in the per diem determined under subsection (b) as payable to the member under subsection (a) or (e).

(2) Any reimbursement provided to a member under paragraph (1) is in addition to a per diem payable to that member under subsection (a) or (e).

(e) PAYMENT OF ALLOWANCE BASED ON OVERSEAS LOCATION OF DEPENDENTS.—In the case of a member assigned to duty inside the continental United States whose dependents continue to reside outside the continental United States, the Secretary concerned may pay the member a per diem under this section based on the location of the dependents and provide reimbursement under subsection (d) for an unusual or extraor-