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# COLAs for Military Retirees: Summary of Congressional and Executive Branch Action, 1982-2003 (FY1983-FY2004)

**Updated January 2, 2004**

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# COLAs for Military Retirees: Summary of Congressional and Executive Branch Action, 1982-2003 (FY1983-FY2004)

## Summary

The Omnibus Reconciliation Act of 1982 (which applied to FY1983 budget issues) suspended previously existing permanent law pertaining to cost-of-living adjustments (COLAs) for federal civilian and military retirees, and changed the COLA calculation formulas to postpone and/or reduce future COLAs for military retirees during 1983-1985 (FY1984-FY1986). Although the COLA situation during 1983 (FY1984) remained unchanged, despite some proposals to modify the 1982 legislation so as to further reduce COLAs, the period from 1984 (the FY1985 budget) to 1986 (the FY1987 budget) was marked by intense debate over reducing COLAs and an actual elimination of the 1986 (FY1987) COLA. Reagan Administration budget proposals in both 1987 (FY1988) and 1988 (FY1989) did not propose any changes in military retirement COLA provisions contained in permanent law, a major change from the previous several years. Neither did any such changes take place as a result of congressional action.

The original Bush Administration budgets in both 1989 (FY1990) and 1990 (FY1991) proposed canceling the COLAs scheduled for January 1, 1990, and January 1, 1991, respectively, and reducing future COLAs. However, none of these proposals were eventually enacted into law. The Bush Administration budgets in 1991 (FY1992) and 1992 (FY1993) did not include any proposals for reducing COLAs, and no such proposals were acted on by the Congress.

The Clinton Administration's budgets for 1993-1999 (FY1994-2000) did not include any proposals for reducing COLAs, although COLA reduction proposals were considered by the Congress during some of these years. Some were enacted in each of the years 1993-1995 (FY1994-1996), providing that in each of those years, disabled military retirees and survivor benefit recipients were first paid their COLA on January 1; nondisabled military retirees first received their COLAs on April 1. However, the FY1997-FY2004 budgets, enacted in 1996-2003 respectively, contained no changes in the COLA formula. Hence, the FY1997-FY2004 military retirement COLAs were first paid on January 1 of each of those years, respectively, to all classes of military retirees. These eight years are the longest period since military retirement COLAs were first authorized in 1963 in which no legislative changes in the COLA mechanism have been made; the six years FY1999-FY2004, calendar years 1998-2003, are the longest period in which no COLA cuts have even been proposed, let alone enacted.

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# COLAs for Military Retirees: Summary of Congressional and Executive Branch Action, 1982-2003 (FY1983-FY2004)

## Background: The Omnibus Reconciliation Act of 1982 (FY1983)

The Omnibus Reconciliation Act of 1982 (P.L. 97-253; September 8, 1982) suspended previously existing permanent law pertaining to cost-of-living adjustments (COLAs) for federal civilian and military retirees. Much of the legislative and executive branch activity related to military retirement COLAs since 1983 has involved efforts to repeal or extend provisions of this legislation.

Prior to enactment of the 1982 Act, military retirement COLAs had been paid on an annual basis, effective on March 1 of each year, and based on the percentage increase in the Consumer Price Index (CPI) of December of the preceding year over that of the December before that. For example, the 8.7% COLA, effective March 1, 1982, was based on the percentage increase in the CPI of December 1981 over that of December 1980.

The 1982 Act provided that COLAs for FY1983, FY1984, and FY1985 would be effective on April 1, 1983, May 1, 1984, and June 1, 1985, respectively. It also provided for the COLAs of nondisabled military retirees under age 62 to be calculated according to a different formula designed to lower them relative to those of all other military retirees. A COLA of 3.3% was accordingly paid to nondisabled military retirees under 62, and a 3.9% COLA was paid to all other military retirees, effective April 1, 1983. In addition, the 1982 Act required deductions equal to the COLAs in their military retired pay from the pay of most federal civil servants who had previously retired from the military.

This report examines executive and congressional COLA-related initiatives associated with each of the fiscal year budgeting processes from calendar year 1982 (FY1983) through calendar year 2000 (FY2001).

## FY1984 (1983) COLA Actions

The COLA situation for military retirees remained unchanged during FY1984 legislative activity (that which took place during calendar year 1983), despite efforts from the Administration and in the Congress.

The Reagan Administration's budget request for FY1984, submitted to the Congress in early 1983, contained several measures related to military retirement COLAs. The Administration proposed to:

- Cancel the FY1984 COLA scheduled for May 1, 1984. The FY1983 (April 1, 1983) and FY1985 (June 1, 1985) COLAs would occur as mandated by the Omnibus Reconciliation Act of 1982;
- Beginning in FY1986, limit COLAs for nondisabled retirees under age 62 to one-half of the actual percentage increase in the CPI (frequently referred to as a "half-COLA" or "diet COLA"). Nondisabled retirees 62 or older, retirees receiving disability retired pay, and survivor annuitants would continue to receive full COLAs.

The First Concurrent Resolution on the FY1984 Budget (H.Con.Res. 91), approved by the House and Senate on June 23, 1983, assumed that the effective date of the FY1984 COLA would be delayed until December 1, 1984, with all subsequent annual COLAs also effective on December 1. This would have had the effect of canceling the FY1984 COLA, while advancing the effective date of the FY1985 COLA by seven months. However, Congress adjourned on November 18, 1983, without enacting the proposed changes in substantive authorizing legislation. The COLA situation therefore remained as enacted in the Omnibus Reconciliation Act of 1982, under which the next military retirement COLA was to be effective on May 1, 1984.

Two other COLA-related legislative proposals in 1983 received substantial attention but were not passed by the Congress: (1) the Administration proposal to institute a permanent "half-COLA" for nondisabled military retirees under 62, and (2) a provision of the Senate version of the FY1984 reconciliation bill that would have repealed the requirement instituted in the 1982 Act that most federally employed military retirees have an amount equal to the COLA they received be deducted from their civil service salaries.

## FY1985 (1984) COLA Actions

In FY1985 legislative action (calendar year 1984), the COLA provisions in the Omnibus Reconciliation Act of 1982 were largely negated.

The Reagan Administration's FY1985 budget request, submitted in early 1984, contained several measures related to military retirement COLAs. The Administration proposed to:

- Repeal the provisions of the Omnibus Reconciliation Act of 1982 (1) authorizing COLAs effective May 1, 1984, and June 1, 1985, and (2) providing for the COLAs of nondisabled retirees under age 62 to be calculated on a different basis from all other retirees' COLAs;
- Permanently shift the payment date for federal civilian and military retirement COLAs to January 1 of each year, beginning with January 1, 1985. (This proposal, in conjunction with that described in the

preceding paragraph, would therefore have resulted in no COLA being paid between April 1, 1983, and January 1, 1985.) At the same time, the period of time over which the CPI was measured to determine the extent of the COLA increase would have been modified to reflect the increase in the average CPI between the third quarters of successive years (i.e., the COLA paid to federal retirees on January 1, 1985, would be based on the percentage increase in the average CPI for the period June-September 1984 over the average for June-September 1983).

**The Omnibus Reconciliation Act of 1983** (P.L. 98-270; April 18, 1984) was the legislative vehicle for these proposals and therefore for practical purposes repealed comparable provisions of the Omnibus Reconciliation Act of 1982.

**The Deficit Reduction Act of 1984** (P.L. 98-369; July 18, 1984) repealed the provisions of the 1982 Act which required most military retirees working for the federal government to forfeit their military retired pay COLAs. It also changed the technical payment date for military retired pay (checks or electronic fund transfers) from the last business date of the current month (i.e., the 30th or 31st of most months) to the first business day of the next month. By pushing the twelfth monthly military retirement payment for FY1985 from September 30 to October 1, 1985 -- the first day of FY1986 -- this provision provided a one-time paper savings in FY1985 of $1.6 billion in military retirement outlays.

**The Second Supplemental Appropriation Act for FY1984** (P.L. 98-396; August 22, 1984) had the practical effect of negating the provision of the 1982 Act which would have provided nondisabled military retirees under 62 a smaller COLA on January 1, 1985, than those granted all other military retirees. Thus, on January 1, 1985, all military retirees received a 3.5% COLA.

## FY1986 (1985-1986) COLA Actions

The Reagan Administration's FY1986 Department of Defense (DOD) budget proposed to eliminate the military retired pay COLA scheduled for January 1, 1986; there would thus have been no COLA between that paid on January 1, 1985, and that scheduled for January 1, 1987, under existing law. The final Concurrent Resolution on the Budget (S.Con.Res. 32; approved by both the House and the Senate on August 1, 1985) rejected the Administration's recommendation to cancel the FY1986 COLA, indicating initially that it would be paid as permanent law provided on January 1, 1986.

However, the Balanced Budget and Emergency Deficit Control Act of 1985, also known as the Gramm-Rudman-Hollings (GRH) Act (P.L. 99-177; December 12, 1985) provided that payment of the FY1986 COLA was to be at least temporarily suspended until other provisions of the GRH Act took effect, no earlier than March 1, 1986. Specifically, subsection 252(a)6(c) of GRH provided that "the amounts that would otherwise be expended" during this period for COLAs would be withheld. Payment of the FY1986 COLA was accordingly suspended between January 1, 1986,

and March 1, 1986. The President, according to other provisions of GRH, then determined that payment of the FY1986 COLA had to be completely eliminated to assist in reducing the FY1986 federal deficit. It was therefore permanently canceled.

On July 7, 1986, the Supreme Court held that the automatic spending provisions of GRH were unconstitutional; however, the Court stayed the effects of its decision for 60 days to give the Congress and the President time to enact the FY1986 GRH-mandated budget cuts into effect through the regular, pre-GRH legislative process if it so desired. On July 31, 1986, the President signed P.L. 99-366, which ratified and affirmed the FY1986 GRH budget cuts, including the FY1986 COLA cancellation.

## FY1987 (1986) COLA Actions

The Reagan Administration's FY1987 DOD budget proposed to eliminate the military retired pay COLA scheduled for January 1, 1987. If accepted, this proposal would have meant that there would have been no COLA between that paid on January 1, 1985, and the one scheduled, under permanent law, for January 1, 1988.

The final Concurrent Resolution on the FY1987 Budget (S.Con.Res. 120; passed both House and Senate on June 26, 1986) assumed that full military retirement COLAs would be paid in FY1987 on the basis of permanent law. The Omnibus Budget Reconciliation Act of 1986 (Sec. 7001, Title VII, P.L. 99-509; October 21, 1986) also provided that full COLAs would be paid according to permanent law in calendar years 1987 through 1991, inclusive, to military retirees (and retirees covered by other federal retirement programs as well), if GRH-mandated spending cuts occur. (Because GRH-mandated spending cuts did not take place for the FY1987 budget, however, this latter provision of law was not required to guarantee the payment of a military retirement COLA for FY1987.) Accordingly, based on the percentage increase in the average Consumer Price Index for the third quarter of 1986 over the average CPI for the third quarter of 1985, military retirees received a 1.3% COLA on January 1, 1987.

## FY1988 (1987) and FY1989 (1988) COLA Actions

The Reagan Administration's FY1988 and FY1989 DOD budgets did not propose any changes in military retirement COLA provisions contained in permanent law. As this report indicates, this was a major change from previous years. Reagan Administration DOD budget requests from 1983 (FY1984) through 1986 (FY1987) all contained COLA-related proposals, which usually had the aim of postponing or eliminating COLAs to save money.

The Congress also did not enact any restrictions on COLAs in 1987 and 1988 as part of its consideration of the FY1988 and FY1989 budgets. The House Budget Committee, full House, Senate Budget Committee, full Senate, and final versions of the Concurrent Resolutions on the FY1988 and FY1989 Budgets all assumed the payment of full COLAs in FY1988 in accordance with permanent law. In addition,

the 1987 amendments to the Gramm-Rudman-Hollings (GRH) deficit reduction process (P.L. 100-119; September 29, 1987) provided for the **exclusion** of military retirement COLAs from any automatic sequestrations (across-the-board budget reductions) resulting from GRH. This contrasts with the original GRH Act, which, as noted above on page 3, canceled the FY1986 military retirement COLA originally scheduled for payment on January 1, 1986, and would have allowed cancellation of future COLAs under certain circumstances. Finally, no other legislation enacted in 1987 and 1988 affected the operation of the permanent-law COLA formula.

Accordingly, based on the percentage increase in the average Consumer Price Index for the third quarter of calendar year 1987 over the average CPI for the third quarter of calendar year 1986, military retirees received a 4.2% COLA on January 1, 1988. Based on the percentage increase in the average CPI for the third quarter of calendar year 1988 over the average CPI for the third quarter of calendar year 1987, military retirees received a 4.0% COLA on January 1, 1989.

## FY1990 (1989) COLA Actions

The original FY1990 budget of the incoming Bush Administration (and that of the outgoing Reagan Administration), unlike the budgets the Reagan Administration submitted for FY1988 (1987) and FY1989 (1988), but very much like those the Reagan Administration did submit for FY1984 (1983) through FY1987 (1986), did propose reducing military retirement COLAs. The Bush Administration's COLA reduction program had two components. First, it proposed to cancel the COLA that would be paid on January 1, 1990. Second, through at least 1994, **all** military retirees (not just those who first entered military service after August 1, 1986, as provided for in the Military Retirement Reform Act of 1986) would, beginning with the January 1, 1991 COLA, have their COLA calculated on the basis of one percentage point below the actual rate of inflation as measured by the Consumer Price Index-related formula described above.

However, the bipartisan budget agreement reached between Congress and President Bush in the spring of 1989 assumed that COLAs would be paid to military retirees based on permanent law. Although there were no explicit statements to that effect stated in the documents associated with the agreement, no savings from COLA cancellations were included in the budgetary calculations released to the public as part of the agreement. The Bush Administration thus implicitly abandoned the idea of proposing COLA reductions for either FY1990 or later fiscal years.

In addition, the House, Senate, and final versions of the FY1990 concurrent resolution on the budget all assumed the payment of full COLAs in accordance with permanent law. Finally, the various statutes described above which prevented sequestration under GRH from affecting military retirement and other Federal retirement COLAs remained in effect.

Based on the permanent statutory COLA computation formula, therefore (the percentage increase in the average CPI for the third quarter of calendar year 1989

over the average CPI for the third quarter of calendar year 1988), military retirees received a 4.7% COLA on January 1, 1990.

## FY1991 (1990) COLA Actions

The original FY1991 budget of the Bush Administration, submitted in early 1990, proposed military retirement COLA reductions identical in nature to those the Administration had proposed a year earlier for FY1990. The FY1991 COLA reduction proposal of the Administration had two components. First, it proposed to cancel the COLA that would be paid on January 1, 1991. Second, through at least 1995 (FY1995), **all** military retirees (not just those who first entered military service after August 1, 1986, as provided for in the Military Retirement Reform Act of 1986[1]) would, beginning with the January 1, 1992 COLA, have their COLA calculated on the basis of one percentage point below the actual rate of inflation as measured by the Consumer Price Index-related formula described above.

In addition to the Administration's COLA reduction proposal, it was reported that the ongoing budget summit negotiations between the congressional leadership and the Administration, during August-October 1990 considered reductions in COLA benefits similar, but deeper, than those proposed by the Administration. These reductions allegedly included the following elements: (1) canceling the FY1991 COLA scheduled for payment on January 1, 1991; (2) limiting COLAs in FY1992 and thereafter to the CPI minus one percentage point for military retirees age 62 and over; (3) providing no COLAs for military retirees under age 62; and (4) restoring the purchasing power of under-62 retirees with a one-time recomputation of their retired pay. After the one-time recomputation, the purchasing power of retirees over age 62 would, however, still decline due to their future COLAs being determined on the basis of the CPI-minus one formula.[2] However, the final budget agreement reached by the congressional leadership and the Administration in late October 1990 included no such COLA reductions.

The House, Senate, and final versions of the FY1991 concurrent resolution on the budget all assumed the payment of full COLAs in accordance with permanent law. Finally, the various statutes described above which prevented sequestration under GRH from affecting military retirement and other federal retirement COLAs remained in effect.

Based on the permanent statutory COLA computation formula, therefore (the percentage increase in the average CPI for the third quarter of calendar year 1990 over the average CPI for the third quarter of calendar year 1989), military retirees received a 5.4% COLA on January 1, 1991.

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[1] Ibid.

[2] See, for example, Rick Maze, "4.1% Pay Raise Called 'Clearly Dead'; 3.5% in Doubt." *Army Times*, Sept. 24, 1990: 3; "Retirees Cry Foul over Suggested COLA Cuts." *Army Times*, Oct. 1, 1990: 10; and "Cheney Fights for COLA." *Army Times*, Oct. 8, 1990: 4.

# FY1992 (1991) and FY1993 (1992) COLA Actions

The original FY1992 and FY1993 budgets of the Bush Administration, submitted in early 1991 and 1992, respectively, proposed no military retirement COLA reductions. The House, Senate, and final versions of the FY1992 concurrent resolution on the budget all assumed the payment of full COLAs in accordance with permanent law.

The various statutes described above which prevented sequestration under GRH from affecting military retirement and other federal retirement COLAs remained in effect in FY1992 and FY1993. The Bush Administration did propose, as part of its FY1993 budget, to allow military retirement COLAs to be subject to a GRH budget sequestration if one took place, but Congress took no action on this proposal and it was not enacted.

Based on the permanent statutory COLA computation formula (the percentage increase in the average CPI for the third quarter of calendar year 1991 over the average CPI for the third quarter of calendar year 1990), military retirees received a 3.7% COLA on January 1, 1992.

Similarly, based on the permanent statutory COLA computation formula (in this case, the percentage increase in the average CPI for the third quarter of calendar year 1992 over the average CPI for the third quarter of calendar year 1991), military retirees received a 3.0% COLA on January 1, 1993.

# FY1994 (1993) COLA Actions

## Summary

After a year of complex and lengthy debates on military retirement COLAs, 1993 ended with the Omnibus Budget Reconciliation Act of 1993 providing that military retirees received a 2.6% COLA on either **April 1, 1994 (nondisabled retirees)** or **January 1, 1994 (disability retirees and survivor benefit recipients)**.

## Administration Proposals

The Clinton Administration FY1994 budget did **not** propose curtailing military retirement COLAs.

## FY1994 Congressional Budget Resolution

The FY1994 budget resolution embodied, in its budgetary assumptions, certain restrictions on COLAs. However, as with all such assumptions, these were not binding.

**House Version of the FY1994 Budget Resolution**. The following assumptions regarding military retirement COLAs were contained in the House version:

1. **All** military retirees would have had their COLAs capped at $400 for FY1994 -- that COLA to be first paid on January 1, 1994;

2. **Current retirees UNDER age 62** would have had their COLAs computed on the basis of 50% of the actual inflation rate. When a retiree reached age 62, there would have been a one-time recomputation of his or her annuity to make up for the lost purchasing power caused by the holding of COLAs to 50% of the inflation rate. This would have been a permanent change in the COLA formula for under-62 military retirees. Survivor benefit recipients would have been excluded from this change; and

3. **Current retirees 62 OR OLDER** would have had their COLAs computed on the basis of one percentage point below the actual inflation rate, but only for Fiscal Years 1995-1997.

**Senate Version of the FY1994 Budget Resolution.** The Senate version embodied no COLA restrictions in its policy assumptions.

**Final FY1994 Budget Resolution as Enacted.** The final budget resolution embodied the following COLA restrictions in its policy assumptions:

1. Current retirees **under age 62** (not all retirees, as would have been the case in the assumptions embodied in the House version) would have had their COLAs capped at $400 for FY1994 -- that COLA to be first paid on January 1, 1994;

2. Current retirees **under age 62** would have had their COLAs computed on the basis of 50% of the actual inflation rate. When a retiree reached age 62, there would have been a one-time recomputation of his or her annuity to make up for the lost purchasing power caused by the holding of COLAs to 50% of the inflation rate. This would have been a permanent change in the COLA formula for under-62 military retirees. (This was identical to #2 of the House version, as noted above.)

## Omnibus Budget Reconciliation Act of 1993 (FY1994 Reconciliation Legislation)

**Table 1** itemizes congressional action on military retirement COLAs in the Omnibus Budget Reconciliation Act of 1993 (in all versions, military Survivor Benefit Plan beneficiaries and military disability retirees are excluded). Note that this legislation changed the **dates** of COLAs, not the COLA computation formulas. The final bill's action on federal civil service retirement COLAs is included for comparative purposes. As the table indicates, civil service retirement COLAs were to have been reduced less than military retirement COLAs.

**Table 1. Military and Civil Service Retirement COLAs in the Omnibus Budget Reconciliation Act of 1993**

| | Date COLA Paid | | | | | |
|---|---|---|---|---|---|---|
| | **1994** | **1995** | **1996** | **1997** | **1998** | **1999** |
| **House** | 05/01/94 | 08/01/95 | 11/01/96 | None | 02/01/98 | 05/01/99 |
| **Senate** | 10/01/94 | 10/01/95 | 10/01/96 | 10/01/97 | 09/01/98 | 01/01/99 |
| **Military COLAs** (Final) | 04/01/94 | 10/01/95* | 10/01/96* | 10/01/97* | 10/01/98* | 01/01/99 |
| **Civil Ser COLAs** (Final) | 04/01/94 | 04/01/95 | 04/01/96 | 01/01/97 | 01/01/98 | 01/01/99 |

*Changed by legislation enacted in 1994.

**Reasons for Larger Cuts in Military Than in Civil Service Retirement COLAs.** After action on the Omnibus Budget Reconciliation Act of FY1994 reconciliation legislation was complete, many military retirees questioned why the legislation provided that military retirement COLAs would be paid later than civil service retiree COLAs in FY1995-1998. The reasons are complex, and relate to the congressional budget process.

As noted above, the FY1994 congressional budget resolution included retirement spending reductions based on the policy assumption of limiting civilian and military retirement COLAs to one-half the rate of inflation for retirees under age 62 up to a maximum COLA in 1994 of $400. This generated larger estimated savings in military than in civil service retirement, because there are more military than civil service retirees under age 62 (in 1992, about 55% of military retirees were under 62, compared to about 15% of civil service retirees).

The budget resolution is the vehicle through which the congressional budget committees annually provide instructions regarding budget targets to the authorizing committees. The authorizing committees responsible for the military retirement program are the House and Senate Armed Services Committees; civil service retirement is the responsibility of the House Post Office and Civil Service Committee and the Senate Governmental Affairs Committee. Savings, in the form of reductions to ongoing programs, are enacted in reconciliation legislation drafted in the authorizing committees. Budget resolutions do not contain binding programmatic changes required to achieve specified savings, but the dollar amounts of savings are based on policy assumptions made by the budget committees. The final programmatic changes must be made by the authorizing committees.

The authorizing committees responsible for the military and civilian retirement programs did not adopt the policy assumptions underlying the budget resolution proposal to pay half COLAs to retirees under age 62. Nevertheless, they were required to save the same amount of money that proposal would have saved. Thus,

when the committees decided that delaying the date on which COLAs are paid was more acceptable than differentiating COLAs on the basis of age, it was necessary to include a longer delay for military retirees in the years after FY1994 than for civilian retirees because of the requirement for greater savings from the military program. Nevertheless, the Armed Services Committees agreed to protect from delay COLAs to groups they perceived as more financially vulnerable, namely, military disability retirees and survivors.

## 1993 Congressional COLA Reduction Proposals *Not* Enacted

**"Penny-Kasich."** On October 27, 1993, a bipartisan group of House members led by Representatives Penny and Kasich proposed a package of federal budget cuts as an alternative to a budget cutting proposal advanced the previous day by President Clinton. Initially, the Penny-Kasich proposal would have denied COLAs to all military retirees under age 62, beginning with FY1994. It was later modified to deny COLAs to under-62 retirees who first entered military service on or after January 1, 1994 (i.e., the proposal was fully "grandfathered"). For practical purposes, therefore, the final Penny-Kasich proposal (which was proposed as an amendment to H.R. 3400, 103rd Congress, and was defeated in the House on November 22, 1993) would not have affected any retirees until January 1, 2014 (when the first military members affected would have completed 20 years of service and become eligible for immediate nondisability retirement).

**Senate Proposal, November 1993**. On November 10, 1993, a bipartisan group headed by Senator Bob Kerrey released a budget cutting proposal broadly similar to Penny-Kasich; it called for cutting the FY1994 COLA in half, from 2.6% to 1.3%, and, exactly like the final version of Penny-Kasich, denying all COLAs to under-62 retirees who first entered military service on or after January 1, 1994. This proposal was never introduced as a Senate bill.

**Boren-Danforth Proposal, May 1993.** Another COLA reduction scheme, never actually embodied in a bill, was proposed by Senators Boren and Danforth as part of another bipartisan deficit reduction effort released on May 20, 1993. This plan would have paid full COLAs on only the first $600 monthly of military retired pay, federal civil service retired pay, and Social Security retirement. Under this proposal, which would have been in effect during FY1994-1998, COLAs on military retired pay above $600 monthly would have been limited to two percentage points below the CPI increase as determined in accordance with the permanent COLA formula. (For example, assume the COLA was computed to be 4% for a particular year. A retiree receiving $1,000 monthly in retired pay would have had the full COLA of 4% paid on the first $600 monthly of his retired pay; but only a 2% COLA paid on the remaining $400 monthly.) The Boren-Danforth proposal did not exempt disability retirement and survivor benefits from its provisions.

# FY1995 (1994) COLA Actions

## Summary

After legislative activity even more intricate than in 1993, the 2nd session, 103rd Congress, ended with the FY1995 National Defense Authorization Act and the FY1995 DOD Appropriations Act providing that military retirees received a 2.8% COLA on **April 1, 1995 (nondisability retirees)** or **January 1, 1995 (disability retirees and survivor benefit recipients)**.

## Administration Proposals

The FY1995 budget of the Clinton Administration, released in February 1994, did not propose cutting military retirement COLAs.

## FY1995 Congressional Budget Resolution

The final version of the FY1995 budget resolution, approved in early May 1994, included no cuts in military retirement COLAs. Neither did the House and Senate versions, both approved during March 1994 (an attempt to eliminate military and civil service retirement COLAs for FY1996 and FY1998 was defeated in the House Budget Committee).

## FY1995 National Defense Authorization Act and FY1995 DOD Appropriations Act

**Table 2**, below, summarizes legislative action during 1993 and 1994 (involving consideration of the FY1994 and FY1995 budgets, respectively) on military retirement COLAs. The situation that existed prior to 1993, and the status of civil service retirement COLAs, are included for comparative purposes.

## Table 2. FY1994-1995 Legislative Action on Military and Civil Service Retirement COLAs

(Nondisabled Military Retirees ONLY)

| | Date COLA Paid | | | | | |
|---|---|---|---|---|---|---|
| | **1994** | **1995** | **1996** | **1997** | **1998** | **1999** |
| **Law Before 1993**: Military and Civil Svc COLAs | 01/01/94 | 01/01/95 | 01/01/96 | 01/01/97 | 01/01/98 | 01/01/99 |
| **Military COLAs:** Final 1993 Action | 04/01/94 | 10/01/95 | 10/01/96 | 10/01/97 | 10/01/98 | 01/01/99 |
| **Military COLAs**: 1994 Action (FY1995 Def Auth Act) | NA | 04/01/95 (HASC/ House)*<br>07/01/95 (SASC)<br>04/01/95 (Senate)<br>**04/01/95 (Final)*** | No House action<br>07/01/96 (SASC)<br>No Senate action | No House action<br>05/01/97 (SASC)<br>No Senate action | No House action<br>05/01/98 (SASC)<br>No Senate action | No House action<br>No SASC action<br>Same as civil svc (Senate) |
| **Military COLAs**: 1994 Action (FY1995 Def **Approp** Act) | NA | No House action<br>04/01/95 (SAC/Senate)<br>**04/01/95 (Final)*** | No House action<br>04/01/96 (SAC/Senate)<br>04/01/96 (Final) | No House action<br>No Senate action<br>01/01/97 (Final) | No House action<br>No Senate action<br>01/01/98 (Final) | No House action<br>No Senate action<br>No conf action |
| **Civil Svc COLAs**: 1994 Action (FY1995 Def Auth Act) | NA | No House action<br>07/01/95 (SASC)<br>No Senate action | No House action<br>07/01/96 (SASC)<br>No Senate action | No House action<br>05/01/97 (SASC)<br>No Senate action | No House action<br>05/01/98 (SASC)<br>No Senate action | No House action<br>No SASC action<br>Same as military (Senate) |
| **Civil Svc COLAs**: Final 1993 Action | 04/01/94 | 04/01/95 | 04/01/96 | 01/01/97 | 01/01/98 | 01/01/99 |

*The April 1, 1995 payment date of the FY1995 military retirement COLA authorized in the FY1995 National Defense Authorization Act could only be paid if appropriations were made specifically for this purpose. The House Appropriations Committee and full House versions of the FY1995 DOD Appropriations Act did not include funding of this earlier COLA. The Senate Appropriations Committee and full Senate versions did include funding for the earlier COLA. In conference action, the Senate position prevailed, so that the FY1995 military retirement COLA was paid to nondisabled retirees on **April 1, 1995**.

## COLA Action in the FY1995 National Defense Authorization Act: Detailed Discussion

**House Armed Services Committee.** In its report on the FY1995 National Defense Authorization Act, the House Armed Services Committee, in addition to identifying $376 million to be used to fund an FY1995 military retirement COLA that would first be paid on the same date as the civil service retirement COLA -- April 1, 1995 -- also stated that it "will seek to work through the budget process to find a solution to the disparate COLA payment dates for fiscal years 1996, 1997, and 1998."

**House Floor Action.** The full House adopted the House Armed Services Committee language on military retirement COLAs.

**Senate Armed Services Committee.** The Senate Armed Services Committee version of the authorization bill would have paid for **earlier** military retirement COLAs by authorizing **later** civil service retirement COLAs. This would have avoided paying for the earlier COLAs by cutting discretionary defense spending. [Because civil service retirement COLAs are within the jurisdiction of the Senate Governmental Affairs Committee, not the Armed Services Committee, the Senate committee did not actually include statutory language to modify civil service retirement COLAs in the bill it reported. The Armed Services Committee report (Senate Report 103-282, June 14, 1994, pp. 197-99) instead contained explanatory language for a committee amendment which was to have been offered during floor consideration of the FY1995 National Defense Authorization Act.]

**Senate Floor Action.** The Senate Armed Services Committee amendment described immediately above was never offered by Senator Nunn, the committee chairman. Instead, the Senate adopted (by a vote of 88-12) an amendment, cosponsored by Senators Warner and Sarbanes, which was identical to the language in the House authorization bill.

The Senate also adopted another amendment which would have required military and civil service retirement COLAs to first be paid on the same date, beginning October 1, 1998 (FY1999).

**Conference Action.** The conference version of the authorization bill (reported August 12, 1994) included the language adopted by both House and Senate. However, the conference report included language strongly criticizing the use of discretionary defense funds needed to maintain military readiness for the payment of retirement COLAs, an entitlement that does not contribute to readiness, and stating that for this reason "the conferees deem it imperative that an alternative method of eliminating the [disparity between military and civil service retirement COLAs] be found for fiscal years 1996, 1997, and 1998."

The conference version of the authorization bill also changed the Senate floor amendment language **mandating** that military and civil service retirement COLAs be paid on the same date, whichever was earlier, to language that it was "the sense of the Congress" that such a change should be made.

## COLA Action in the FY1995 DOD Appropriations Act: Detailed Discussion

**House and Senate Committee and Floor Action.** The payment of the earlier COLA in accordance with the House and Senate authorization language was explicitly contingent on the appropriation of the additional $376 million in appropriations legislation. The House Appropriations Committee and full House versions of the FY1995 DOD Appropriations Act did not include any such appropriations. However, the Senate Appropriations Committee and full Senate version of the FY1995 DOD Appropriations Act did, despite the previously stated opposition of Senators Byrd and Inouye, Chairmen of the full Senate Appropriations Committee and the Senate Defense Appropriations Subcommittee, respectively, to the plan adopted by both the House and Senate.

**Conference Action.** Whether or not the FY1995 COLA was to be paid earlier than October 1, 1995, therefore, depended on the conference action on the FY1995 DOD Appropriations Act (see the conference report, H.Rept. 103-747. September 26, 1994). Because the Senate position prevailed in the conference, the FY1995 military retirement COLA would be paid on the same date as COLAs for civil service retirees: **April 1 in 1995 and 1996 and January 1 thereafter**. Based on the existing statutory COLA computation formula described above, the amount of the 1995 COLA was to be 2.8%. If the Senate position in the **appropriations** act had not prevailed, and no money had been appropriated for the earlier COLA, no matter what the language in the FY1995 National Defense **Authorization** Act, the COLA delays contained in the 1993 OBRA would have remained, and the FY1995 military retirement COLA would have been scheduled for first payment on October 1, 1995.

The conference version of the FY1995 DOD Appropriations Act also contained a provision which mandated the payment of the FY1996-1998 military retirement COLAs on the same dates mandated by the 1993 OBRA for civil service retirement COLAs during those years: April 1, 1996; January 1, 1997; and thereafter January 1 (rather than the October 1 mandated for military retirement COLAs only in the OBRA). The January 1 dates, it should be noted, were those that are provided in permanent law which governed military retirement COLAs before enactment of the 1993 OBRA or the FY1995 defense authorization and appropriations legislation.

Furthermore, the earlier military retirement COLAs mandated in the FY1995 DOD Appropriations Act were contingent on two requirements: (1) the President's FY1996 defense budget proposing legislation to pay for the earlier COLAs in accordance with budgetary rules for entitlement programs and mandatory (i.e., not discretionary, spending); and (2) the enactment of authorizing legislation which would offset the cost of first paying COLAs on the earlier dates by cuts in other mandatory and entitlement programs.

## FY1994-1995 COLA Reductions: Budgetary Aspects

The COLA reductions enacted as part of the 1993 OBRA were projected to save $788 million in civil service retirement costs and $2.358 billion in military retirement costs -- a total of $3.146 billion in savings -- during the period FY1994-1998. Because the FY1995 COLA was scheduled for payment on April 1, 1995 and 1996; and January 1 of 1997 and thereafter, the total savings (those that were projected in 1994) were to be reduced, as shown in **Table 3**.

The plan originally advanced by the Senate Armed Services Committee (which was NOT adopted by the full Senate), by providing for earlier military retirement and later civil service retirement COLAs, would actually have resulted in savings **greater** than the original 1993 OBRA delays in military retirement COLAs. The Senate committee plan would have decreased total costs by $79 million in FY1995 ($189 million in increased military retirement outlays offset by $268 million in decreased civil service retirement outlays). Over the period FY1995-1999, the Senate Armed Services Committee amendment would have resulted in $221 million in savings ($1.118 billion in increased military retirement outlays offset by $1.339 billion in decreased civil service retirement outlays). Overall savings would have been achieved because there are more civil service retirees than military retirees and civil service retirement outlays ($34.6 billion in FY1993) are substantially larger than military retirement outlays ($27.2 billion in FY1993 outlays).

### Table 3. Military and Civil Service Retirement Cost Savings Due to COLA Postponements, FY1994-FY1998

(FY1994 Budget Estimates)

| Fiscal Year | Military Retirement: Original Savings From 1993 OBRA | Military Retirement: Savings After Enactment of FY1995 Defense Authorizations and Appropriations | Civil Service Retirement: Original Savings From 1993 OBRA |
|---|---|---|---|
| 1994 | $180 million | $180 million | $271 million |
| **1995** | $509 million | $168 million* | $254 million |
| **1996** | $532 million | $176 million* | $263 million |
| **1997** | $556 million | 0 | 0 |
| **1998** | $580 million | 0 | 0 |
| **Total** | $2.358 billion | $524 million* | $788 million |

*CRS estimates.

## FY1994-FY1995 COLAs and the Military Survivor Benefit Plan (SBP)

**Background.** Most military retirees participate in the DOD Survivor Benefit Plan (SBP). Under the SBP, a military retiree can have a portion of his or her monthly retired pay withheld to partially finance (the remainder of the costs being borne by the government), after the retiree's death, a monthly survivor benefit to a surviving spouse or other eligible recipient(s). The survivor benefit is a percentage (a maximum of 55%) of a base amount (that amount of retired pay that the retiree selects to be used in determining the SBP benefit and cost). Permanent law provides that whenever a retired pay COLA takes effect, a retiree's SBP premium -- the amount deducted from his or her retired pay -- is increased at the same time and by the same percentage as the COLA [10 USC 1452(h)]. Therefore, had permanent law regarding COLAs not been changed by the 1993 OBRA, the amount deducted from a nondisabled military retiree's retired pay to finance the retiree's SBP participation would have increased by 2.6% on January 1, 1994.

However, as noted above, the OBRA delayed nondisability retirees' COLAs until April 1, 1994. The OBRA did *not*, though, delay the increase in SBP costs to each nondisability retiree enrolled in the SBP. Therefore, SBP premiums were increased for the 3 months of retired pay payable on January 1, February 1, and March 1, 1994. Because DOD said it could not reprogram its computers that generate retired pay checks and electronic payments to accommodate the new law by January 1, the three months of increased SBP premiums were taken out of the retired pay received by retirees on April 1, 1994 -- the first month of the FY1994 COLA. According to DOD, this retroactive collection of SBP premiums amounted to less than $15 for most retirees.

There appeared to be two DOD rationales for the increase in SBP costs to the retirees before the COLA takes effect:

- The survivor benefits received by survivors of retirees who died before the new COLA took effect reflected that COLA -- i.e., their survivor benefits were computed as if the COLA had first been paid on January 1, for the retired pay accruing during December, although the costs to the government of this increase will be much less than the additional SBP deductions taken in by the government;
- As noted above, all survivor benefit recipients received their COLAs on January 1, not April 1. SBP budgeting assumes a particular balance of SBP costs to the government (payments to beneficiaries) and costs to the individual retiree (premiums taken as deductions from retired pay). Had the increase in SBP premiums not been made retroactive to January 1, therefore, the proportion of SBP costs borne by the government would have increased, contrary to the statutory structuring of the SBP.

There has been some controversy about whether SBP deductions from retired pay should start before a fiscal year's COLA is first paid. It has been argued that some or all of the earlier deductions should be waived to avoid the loss in retired pay.

**1994 (FY1995) Legislation.** The Senate version of the FY1995 National Defense Authorization Act included a floor amendment which would have prevented the COLA-driven increases in SBP premium deductions from military retired pay from taking effect before the actual COLA is granted for the retired pay itself. However, this provision was NOT adopted by the authorization conference committee, and hence the earlier premium deductions will continue, unless modified by later legislation. Previously, legislation had been introduced (H.R. 4046 and S. 1817, 103rd Congress) that would have prevented the increased SBP deductions from taking effect before the actual payment of the COLA, applicable for any COLAs which are payable after the legislation's enactment. For further information on the SBP, see CRS Report 94-779, *The Military Survivor Benefit Plan: A Description of Its Provisions.*

## Military Retirement Options of the Entitlement Commission

On December 5, 1994, the staff of the Bipartisan Commission on Entitlement and Tax Reform issued a report containing numerous options for cutting a broad range of federal entitlements.[3] These options were reiterated in the Final Report of the Commission, released on January 27, 1995.

Those options included in the report that would affect military retirement are:

- A cap on the combined total of military retired pay and social security. Under this proposal, the combined total of military retired pay and social security could not, for persons retiring from the military **after January 1, 2000**, exceed 80% of the high-3 years of basic pay. If a retiree's combined benefit exceeded the cap, military retired pay would be reduced, but by no more than 50%. In computing the combined benefit, only social security benefits resulting from military service would be counted; social security based on civilian employment would not be counted. The cap would be computed by DOD at the time a military member retires; thereafter, it would be adjusted upward annually to reflect wage growth in the civilian economy, until the retiree becomes eligible for social security at age 62;
- Reducing the percentage of high-3 basic pay received for each year of service between 20 and 30 years. Military members covered by the Military Retirement Reform Act of 1986 (**those who first entered the military on or after August 1, 1986**) accrue retired pay at the rate of 2% per year for each year of service through 20. Thus, for 20 years of service, retired pay is calculated at 40% of high-3 basic pay. The 1986 Act also provides that for each year of service

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[3] The Commission was established by President Clinton in late 1993 in response to concerns about entitlement growth raised during congressional debate on the 1993 OBRA. It finished its public deliberations on December 15, 1994. Its published products included a letter to the President and both houses of Congress, various packages of entitlement and tax options prepared by different groups of Commission members, and analytical and supporting documents.

past 20, through the 30-year mark, retired pay is calculated at the rate of 3.5% per year, reaching a maximum of 75% of high-3 basic pay [(20 years of service X 2.0%) + (10 years of service X 3.5%)]. The Entitlement Commission staff option would have reduced the 20-30 year accrual rate from 3.5 to 2%. Thus, under this proposal, a retiree with 30 years or more of service would thus receive a maximum of 60% of high-3 basic pay rather than 75%. In addition, the Commission staff proposed dropping the one-time recomputation of retired pay upward at age 62 for the first 20 years of service, as noted above, although it would have retained the one-time recomputation at age 62 to make up for the lost purchasing power caused by the holding of COLAs to the inflation rate minus one percentage point;

- *Cutting military retirement COLAs*. The Commission staff suggested two possible COLA options: (1) revising the CPI, by 1999, to make it more accurate, which the Commission believes would result in lower CPI figures, or limiting COLAs to the CPI - 0.5% until the CPI revisions were completed; and/or (2) suspending all COLAs for one year. These options would affect a wide variety of other federal programs in addition to military retirement.

In addition, two other options to change military retirement were discussed in the individual views submitted by Commission members and contained in the Commission Final Report. These included:

- Limiting COLAs to (1) the full percentage amount or (2) the maximum percentage COLA of the 20th percentile of retirees, whichever is larger. (For example, assume the lowest 20% of retirees receives no more than $1,000 per month in retired pay, and that the COLA is determined to be 5%. All retirees receiving no more than $1,000 per month in retired pay would get a 5% COLA, i.e., a maximum of $50 -- 5% of $1,000. Any retirees receiving more than $1,000 per month in retired pay would get only a $50 COLA as well;
- Placing a cap on all federal entitlements, without exception, including military retirement.

The Commission's Final Report to the President and the Congress did not endorse any specific program cuts. However, the Commission report, as with other such commissions and groups, formed part of later debate on Federal entitlements, including military retirement.

# FY1996 (1995-1996) COLA Actions

## Summary

After legislative activity at least as intricate, if not more so, than that which took place in 1993 and 1994, the first session, 104th Congress, ended with the FY1995 National Defense Authorization Act providing that military retirees would receive a 2.6% COLA on **April 1, 1996 (nondisability retirees)** or on **January 1, 1996 (disability retirees and survivor benefit recipients)**.

## Administration Proposals

The Clinton Administration's FY1996 budget, released in February 1995, did not propose delays or cuts in military retirement COLAs.

## FY1996 Congressional Budget Resolution

The final FY1996 congressional budget resolution did not include any policy and budget assumptions regarding COLAs, although the Senate version had done so.

## FY1996 National Defense Authorization Act, FY1996 DOD Appropriations Act, and FY1996 Omnibus Budget Reconciliation Act

**Table 4** summarizes legislative action during 1995 on the FY1996 military retirement COLA payment date (the formula for figuring the percentage amount of COLA was never in dispute), and compares various proposals with previous statutes regarding both military and civil service retirement. This table applies to **nondisabled** military retirees only; the COLA payment date for disabled retirees and survivor benefit recipients has never varied from the permanent statutory date of January 1 of each year.

## Table 4. FY1996-FY1998 Military and Civil Service COLA Dates

(Military Disability Retirees and Military Survivor Benefit Beneficiaries EXCLUDED)

| | FY1996 | FY1997 | FY1998 |
|---|---|---|---|
| Mil Ret: Permanent Law (10 USC 1401a) | 01/01/96 | 01/01/97 | 01/01/98 |
| Mil Ret: Law Enacted in 1994[a] | 04/01/96[b] | 10/01/97 | 10/01/98 |
| Civil Svc Retirement (Current Law)[c] | 04/01/96 | 01/01/97 | 01/01/98 |
| Mil Ret: FY1996 Budget Res | **04/01/96** (Sen Budget Committee/Sen floor) **No Assumptions** (House Budget Committee/House floor) **No Assumptions** (Final Resolution) | Applies to FY1996 only | Applies to FY1996 only |
| Mil Ret: FY1996 Defense Authorization[d] | **04/01/96** (HNSC/House floor) **04/01/96**(SASC/Senate floor) **04/01/96** (Public Law) | Applies to FY1996 only (HNSC/House floor) **01/01/97**(SASC/ Senate floor) **01/01/97** (Public Law) | Applies to FY1996 only (HNSC/House floor) **01/01/98** (SASC/Senate floor) **Same as civil serv.** (Pub Law) |
| Mil Ret: FY1996 Reconciliation [e] | **04/01/96** (HNSC/House floor) **No provisions** (SASC/Senate floor) **No provisions** (Conf version) | **01/01/97** (HNSC/House floor) **No provisions** (SASC/Senate floor) **No provisions** (Conf version) | **01/01/98** (HNSC/House floor) **No provisions** (SASC/Sen. fl.) **No provisions** (Conf version) |

[a]Permanent law as amended by Section 2001, P.L. 103-66, Omnibus Budget Reconciliation Act of 1993, 107 Stat. 312 at 335; and Section 8114A, FY1995 DOD Appropriations Act, P.L. 103-335, 100 Stat. 2648. Superseded by Sec. 631, FY1996 National Defense Authorization Act, P.L. 104-106, Feb. 10, 1996; 110 Stat. 186.

[b]Only if legislation to authorize such expenditures had been passed, and if offsetting reductions in other budget outlays were identified. Otherwise, reverts to 10/01/96. See Sec. 8114A, FY1995 DOD Appropriation Act, P.L. 103-335, 108 Stat. 2648. Repealed by Sec. 631, FY1996 National Defense Authorization Act, P.L. 104-106, Feb. 10, 1996; 110 Stat. 186.

[c]Proposed language in FY1996 Omnibus Budget Reconciliation Act, as passed by the Congress and vetoed by the President, would have made payment date a uniform April 1 for all years.

[d]House version originally identified $406 million in discretionary defense spending cuts to pay for an April 1, 1996 military retirement COLA. Senate version included no specific funding mechanism in bill language, but Senate bill is reported to have included $1.8 billion in direct -- mandatory, or entitlement -- spending to be used to pay for COLAs first payable on April 1, 1996, and January 1 of 1997 and 1998. Conference version would have (1) required payments of COLAs to be made on dates indicated and contains no specific funding mechanisms and (2) repealed Section 8114A, FY1995 DOD Appropriations Act, P.L. 103-335, 108 Stat. 2648. First version vetoed by President Clinton; House failed to override veto. Second version enacted into law February 10, 1996; Sec. 631, P.L. 104-106; 110 Stat. 186.

[e]Vetoed by the President.

As the legislative process evolved during 1995, the House and Senate ended up assuming that the legislative vehicle for determining the date on which COLAs would first be paid to nondisabled military retirees would be the FY1996 reconciliation bill -- the proposed "Balanced Budget Act of 1995" -- although the House and Senate had addressed the issue earlier in the year in their versions of the FY1996 defense authorization bill. However, due to procedural concerns in the Senate over the extent to which the Senate could include COLA-related provisions in its reconciliation bill --the so-called "Byrd Rule" -- the first version of the FY1996 reconciliation bill ultimately did not address the COLA issue at all. Not only did the bill not specifically mention COLA dates, it appears that $1.8 billion incorporated into the mandatory spending assumptions of the bill, in order to pay for COLAs to be first paid on April 1, 1996, and January 1 of 1997 and 1998 -- was applied to other programs during conference action on the first version of the FY1996 reconciliation bill. The first reconciliation bill, however, was vetoed by the President.

A complicated situation then arose. If **no** COLA legislation had been approved as part of the FY1996 legislative program, then the situation would have "defaulted" back to the COLA dates in previously enacted law. These dates were those enacted as part of the Omnibus Budget Reconciliation Act (OBRA) of 1993 -- **October 1** of 1996, 1997 and 1998. (The 1993 OBRA was amended in 1994 by the FY1995 DOD Appropriations Act to allow the FY1996 COLA to be paid on April 1, rather than October 1, 1996. However, such earlier payment was contingent on authorizing legislation being passed to do so and offsetting savings being identified to pay for the earlier COLA. With the enactment of the FY1996 DOD Appropriations Act into law on December 1, 1995 without COLA provisions, if no other FY1996 legislation had set COLA dates, then it is difficult to see what legislative vehicle would be available to authorize the earlier COLA and identify the offsetting savings -- hence, without further legislation, the FY1996-1998 COLAs would have reverted to October 1.)

However, the FY1996 National Defense Authorization Act, signed into law on February 10, 1996 (P.L. 104-106; 110 Stat. 186), mandated that COLAs first be paid on April 1, 1996; January 1, 1997; and whenever in 1998 civil service retirement COLAs are first paid. (The FY1996 DOD Appropriations Act, P.L. 104-61, December 1, 1995, did not have any COLA provisions).

# FY1997-FY1998 (1996-1997) COLA Actions

## Summary

In FY1997 and FY1998, military retirement COLAs were first paid on **January 1** of each of those years respectively. The percentage increase was 2.9% for 1997 and 2.1% for 1998.

## Administration Budget

The FY1997-FY1998 DOD budgets of the Clinton Administration included no proposals for changes or cuts in military retirement COLAs – i.e., the budgets for all

five years assumed that the law as it stood after enactment of FY1996 legislation would stand: payment of each fiscal year's COLA on January 1 of each year.

## FY1997-FY1998 Congressional Budget Resolutions

**FY1997.** The House version of the FY1997 budget resolution embodied the same assumptions as did the Administration's budget -- an FY1997 COLA paid on January 1, 1997 and later COLAs to be the same as civil service. It simultaneously provided for civil service retirement COLAs to be paid on April 1 of the years 1997 through 2002. Because current law provided for FY1998 and later military retirement COLAs to be paid on the same date as civil service retirement COLAs, the House resolution thus had the effect of assuming FY1998 and later COLAs would be paid on April 1 as well. The House Budget Committee estimated this would save $1.067 billion from FY1998 through FY2002. Because the policy assumptions underlying budgetary amounts are not binding, this did not assure that passage of the House version would have delayed military retirement COLAs until April 1 of each year. What it would have required is that **somehow**, either through the COLA delays or through other cuts in mandatory (direct, or entitlement) spending, equivalent savings be achieved.

However, the Senate version of the FY1997 budget resolution did not address the issue of military retirement COLAs, and the Senate version prevailed in conference. Therefore, the final congressional budget resolution, passed by the House on June 12, 1996, and by the Senate on June 14, contains no policy assumptions regarding military retirement COLAs.

**FY1998.** Neither the House nor the Senate FY1998 budget resolutions, and hence the final resolution, contained any assumptions regarding changes in military retirement COLAs. However, the resolution did assume a slight technical change in how the Department of Labor's Bureau of Labor Statistics calculates the CPI. This change assumed that the CPI would be 0.3 of a percentage point less than it otherwise would have been.

## FY1997- FY1998 National Defense Authorization Acts

**FY1997.** The House version of the FY1997 National Defense Authorization Act did not address the issue of military retirement COLAs. The final version, signed by the President on September 23, 1996 (P.L. 104-201), accepted the Senate version of the Act, changing the effective date of the FY1998 COLA from (1) payment on whatever date the civil service retirement COLA is paid to (2) January 1, 1998.

**FY1998.** There were no COLA changes in any of the various versions of the FY1998 National Defense Authorization Act.

## Other Proposals for Changes in Military Retirement COLAs, 1996-1997

**Concord Coalition Plans, 1996.** In 1996, the Concord Coalition (a bipartisan group devoted to reducing the federal deficit) endorsed eliminating COLAs for all nondisabled retirees (military and federal civilian) under age 62, having a one-time recomputation upward at age 62 to reflect the purchasing power due to the lost COLAs, and then the payment of COLAs at a rate of the Consumer Price Index less one percent thereafter (i.e., the same formula as is mandated by the Military Retirement Reform Act of 1986 for persons who first entered the military on or after August 1, 1986).

**The "Centrist Coalition" Proposals, 1996.** On April 25, 1996, a group of 11 Republican and 11 Democratic Senators known as the "Centrist Coalition" released a plan, not fully formulated, calling for reducing both COLAs and the retired pay computation formula for retirees under age 50. COLAs would be established at April 1 of each year through FY2003; COLAs would be capped in FY1997 and FY1998 at the CPI less 0.5%, and in FY1999 and thereafter at the CPI less 0.3%. Details of the cuts in the computation formula were not yet available. A similar proposal was considered in the House, but likewise not adopted.

**Other Senate Proposals in 1996.** A floor amendment to the Senate version of the FY1997 budget resolution was similar to the "Centrist Coalition" proposals. It would have reduced military retired pay for retirees under age 50; limited COLAs to the first $50,000 annually of retired pay for current and future retirees; and reduced COLAs by 0.5% below the CPI. As with other, similar amendments, it also failed.

**The "Blue Dog" Democrats' CPI Proposals, 1997.** In February 1997, a group of conservative House Democrats, known colloquially as the "Blue Dog" Democrats, released a balanced budget proposal which proposed several types of limits on federal COLAs, including military retirement. Under the Blue Dog proposal, the overall COLA would be reduced by 0.8% (for example, a COLA of 3.0% would be reduced to 2.2%). However, the reduced COLA would be applied not to each individual military retiree, but to the average military retired pay for an average retiree. Each retiree's pay, no matter what the amount, would then be increased by the latter amount. For example, continuing to use 2.2% as an example of a Blue Dog-computed COLA, if the average retiree was receiving $1,600 per month in retired pay, the COLA increase for all retirees would be 2.2% of $1,600, or $35.20 per month. Each retiree, regardless of how much the retiree was receiving in retired pay, would have his or her retired pay increased by a flat $35.20 per month. While this was been defended on grounds of equity, it has been attacked for "penalizing success," by giving higher-ranking personnel a much smaller percentage raise than lower-ranking retirees.

**Proposals to Change the CPI, 1996-1997.** Various authorities have asserted that the CPI overstates the rate of inflation, perhaps by as much as about one percent yearly, and that it should therefore be revised downward. Such a change would cause the annual military retirement percentage COLAs (and all other federal benefits receiving CPI-based COLAs) to decrease accordingly. In general,

proponents of the change argue that the existing mechanism for computing the CPI fails to account for both consumer behavior changes and changes in the quality of goods which contribute to minimizing the rate of inflation. Opponents suggest that the assumptions made by those who wish to change the CPI formula and computing methods are difficult, if not impossible, to verify, and that some of them in fact should not be counted as reducers of inflation. Some comparatively minor changes in the CPI formulae, resulting in CPIs lower by 0.25% a year or less than they otherwise would be, have been implemented without much controversy.

For further information on the CPI controversy, see CRS Report 95-670, *Adjusting Benefits for Inflation: Impacts of Policy Change*.

## Repeal of the 1986 "Redux" Military Retirement Legislation, 1998-1999: Effects on Future COLAs

**The Military Retirement Reform Act of 1986: Summary of 1998-1999 Congressional Action Leading to its Near-Complete Repeal.** Throughout 1998 and into 1999, there was increasing discussion of whether some or all of the future retired pay cuts contained in the Military Retirement Reform Act of 1986 (P.L. 99-348, July 1, 1986; 100 Stat. 682 et. seq.), also known as the "Redux" cuts, should be repealed. Eventually, the Redux retirement reductions were almost completely repealed by the FY2000 National Defense Authorization Act (Sections 641-44, Subtitle D-Retired Pay Reform, Title VI,-Compensation and Other Personnel Benefits, P.L. 106-65, October 5, 1999; 113 Stat. 512 at 662-64). The Redux statute would have substantially cut the retired pay for those retirees who first entered military service on or after August 1, 1986. With very few exceptions, military personnel do not become eligible for retired pay until completing 20 years of service. The Redux formula, therefore, would not have been used to compute any significant number of retirees' pay until mid-2006 (it applied to a very small number of disability retirees starting upon its enactment).

**Redux: Changing the COLA Formula**.[4] For military personnel NOT affected by Redux (i.e., who entered service before August 1, 1986), each December a COLA equal to the percentage increase in the CPI between the third quarters of successive years is applied to military retired pay for the annuities paid beginning each January 1. For example, assume that the CPI rises from an average of 500.0 in the third quarter of 2008 (the average of the CPI for the months of July, August, and September 2008) to an average of 520.0 in the third quarter of 2009, an increase of 20.0 points, or 4.0% of 500.0. The military retired pay that accrues during December 2009, and is actually paid to retirees on January 1, 2010, would be increased by 4.0% above the amount paid the previous month.

For military personnel whose retired pay would have been computed in accordance with Redux, the 1986 Act modified the above formula by providing that

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[4] For a description of the non-COLA aspects of the Redux retirement legislation, see CRS Issue Brief IB85159, *Military Retirement: Major Legislative Issues*.

annual COLAs would have been held to one percentage point below the actual inflation rate for retirees under age 62. Retirees covered by the Redux formula would thus have received a 3.0% increase, rather than 4.0%, in the hypothetical example described in the paragraph immediately preceding this one. However, under Redux, when the retiree reached age 62, there would have been a one-time recomputation of his or her annuity to make up for lost purchasing power caused by the holding of COLAs to the inflation rate minus one percentage point. After this one-time recomputation, however, future Redux COLAs would have continued to be computed on the basis of the CPI minus one percentage point.

**Repeal of the 1986 Redux Legislation: Beginnings and the Administration Proposal.** Most discussion about repealing Redux in 1998 and early 1999 revolved around changing its non-COLA aspects. However, the legislative process, including the Administration's own proposal, which eventually led to the repeal, included variations in the original Redux COLA formula from the beginning.

In late December 1998, the Administration announced that it would propose a repeal of Redux that would replace the COLA formula for Redux-eligible retirees with the formula used for federal civil service retirees covered by the Federal Employee Retirement System (FERS)–the pension plan for those federal civil servants who were first employed by the government on or after January 1, 1984. The FERS formula is less generous than the formula for pre-August 1, 1986 entrant retirees, but more generous than the original Redux COLA provision. FERS currently operates for civil service retirees by giving them a COLA of the CPI minus one percentage point, if the annual CPI increase is over 3%; a flat 2% COLA if the annual CPI increase is between 2 and 3%; and the full CPI if the actual CPI increase is less than 2%.

**Early Legislative Action: The Senate Bill.** On January 27, 1999, the Senate Armed Services Committee reported out S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 (S.Rept. 106-1), which would have offered a military member two choices regarding retirement, of which one would have to be chosen at the 15-year mark: (1) decide to retire under the pre-Redux formula, with full pre-Redux COLA protection, or (2) decide to retire under Redux, including the original Redux COLA formula, but receive an immediate $30,000 cash bonus. The full Senate passed the bill on February 4, 1999.

**Redux Repeal in the FY2000 National Defense Authorization Act.** There was no House action on S. 4, noted above; after the Senate passed S. 4 the legislative vehicle for military retirement changes shifted to the FY2000 defense authorization bill. On May 17, 1999, the Senate Armed Services Committee reported out its version of the authorization bill (S.Rept. 106-50), and the bill passed the full Senate on May 27, 1999. The COLA provisions of the Senate bill were identical to those of S. 4–an option for the individual to select either Redux or pre-Redux COLA formulae. However, the House version of the FY2000 defense authorization was quite different. The House Armed Services Committee's bill, reported May 19, 1999 (H.Rept. 106-162), and the full House bill, passed June 10, 1999, provided the same two options as the Senate–retirement under Redux with a $30,000 bonus or retirement under pre-Redux and no bonus–but the House COLA provisions were less generous than those of the Senate. The House in fact adopted the Administration's

proposal for the option involving the $30,000 bonus; members who selected this would have their COLA computed on the same formula as used in the Federal Employee Retirement System (FERS) as described above. The final version of the bill, however, (P.L. 106-65, October 5, 1999, Sec. 641), contained the House plan–the FERS formula was rejected, and those retirees covered by the 1986 Act will have the option of a Redux or pre-Redux COLA formula, depending on whether or not they opt for the $30,000 cash bonus.

## FY1999-FY2004 (1998-2003) COLA Actions

In each of the six fiscal years FY1999-FY2004, all military retirement COLAs were first paid on January 1 of those years. The percentage increases were 1.3% for 1999, 2.4% for 2000, 3.5% for 2001, 2.6% for 2002, 1.4% for 2003, and 2.1% for 2004. There were no proposals in the Administration budgets and no congressional actions directed at any COLA changes in these years. These six years are the longest period since military retirement COLAs were first authorized in 1963 in which no legislative changes in the COLA mechanism have been even proposed. Similarly, the eight fiscal years FY1997-FY2004 (calendar years 1996-2003), contained no changes in the COLA formula, the longest such period since 1963 in which no actual changes were made.[5]

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[5] COLAs for retired military personnel were first authorized by Sec. 5(g), P.L. 88-132, October 2, 1963; the Uniformed Services Pay Act of 1963; 77 Stat. 210 at 213 et. seq. For post-1963 COLA changes which took place before the period this CRS report covers (pre-1982/FY1983 COLA-related actions), see U.S. Congress. House. Committee on Armed Services. *Title 37, United States Code; Pay and Allowances of the Uniformed Services (As Amended Through December 31, 1990).* Committee Print No. 3. 102nd Congress, 1st session. Washington, U.S. Govt. Print. Off., 1991: 182-83; and Office of the Secretary of Defense. *Military Compensation Background Papers. Compensation Elements and Related Manpower Cost Items; Their Purposes and Legislative Backgrounds*. Fifth Edition, September 1996: 559-61.