



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

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Memorandum for Chief Human Capital Officers

From: Veronica E. Hinton
Associate Director
Workforce Policy and Innovation

Subject: Recent Pay and Leave-Related Legislative Changes

This memorandum is to inform agencies of several important legislative changes and extensions affecting Federal employee pay, leave, and certain benefits. The changes result from the enactment of the National Defense Authorization Act for Fiscal Year 2026 ([Public Law 119-60](#), December 18, 2025) (FY26 NDAA). The guidance in this annual memorandum is intended to assist agencies in implementing new and revised pay and leave entitlements and flexibilities, consistent with applicable related provisions of title 5, United States Code, administered by the U.S. Office of Personnel Management (OPM).

I. Authority Extensions

Section 1105 – 1-Year Extension of Authority to Waive Annual Limitation on Premium Pay and Aggregate Limitation on Pay for Federal Civilian Employees Working Overseas

Section 1105 extends through calendar year (CY) 2026 the authority provided in section 1101 of the Duncan Hunter NDAA for FY 2009 (Public Law 110-417, October 14, 2008), as amended, for the head of an agency to waive the normally applicable premium pay cap established in [5 U.S.C. 5547](#) for certain Federal civilian employees working overseas. The annual limitation on basic pay and premium pay allowed under the waiver authority in CY 2026 is the officially established annual salary rate for the Vice President under [3 U.S.C. 104](#) (\$292,300 in 2026). In addition, when an employee is granted a section 1101 waiver, any pay in addition to basic pay received for service during the waiver period is not counted as compensation in applying the aggregate limitation on pay under [5 U.S.C. 5307](#).

Section 1101(d) of Public Law 110-417 continues to provide the OPM Director with the discretion to issue regulations for this waiver authority. OPM does not currently plan to

issue regulations. However, each agency with covered employees should establish policies for using this waiver authority. To ensure agencies apply this discretionary authority consistently, OPM coordinated with the Department of War and the Department of State to update the attached summary of key elements OPM issues each year that agencies should include in their policies implementing the waiver authority (Attachment). The attached summary includes additional information on employee coverage, approval criteria, and special instructions on applying the waiver authority to employees working in Iraq.

Section 1106 – 1-Year Extension of Temporary Authority to Grant Allowances, Benefits, and Gratuities to Civilian Personnel on Official Duty in a Combat Zone

Section 1106 amends section 1603(a)(2) of Public Law 109-234 (June 15, 2006), as added by Public Law 110-417 (October 14, 2008) and amended by subsequent laws, to grant the head of an agency discretionary authority until the end of **FY 2027** (September 30, 2027), to provide an individual employed by or assigned or detailed to the agency allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act of 1980. The employee must be on official duty in Pakistan or a combat zone, as defined by section 112(c) of the Internal Revenue Code of 1986.

Section 611 – Reserve Income Replacement Program

Section 611(a) amends [37 U.S.C. 910\(g\)](#) to extend the expiration date for the Reserve Income Replacement Program from December 31, 2025, to December 31, 2026. The Reserve Income Replacement Program is administered by the Department of War and provides income replacement payments for certain reserve component members experiencing extended and frequent mobilization for active-duty service. This amendment does not affect the reservist differential authority under [5 U.S.C. 5538](#), which is a separate program for Federal employees administered by OPM in consultation with the Department of War. However, a Federal employee who is entitled to a reservist differential may not receive payments under [37 U.S.C. 910](#) for the same period. (See OPM's [reservist differential](#) guidance for additional information.)

Additional Information

Agency headquarters-level human resources offices may contact OPM at paypolicy@opm.gov (for the pay authorities discussed in this memorandum). Employees should contact their agency human resources office for further information on this memorandum.

Attachment

Attachment: Summary of Key Necessary Elements in Agency Policies Implementing Authority to Waive Annual Limitation on Premium Pay and Aggregate Limitation on Pay for Certain Federal Civilian Employees Working Overseas (Section 1101 of Public Law 110-417, as Amended, for Calendar Year 2026)

cc: Deputy Chief Human Capital Officers and Human Resources Directors

Summary of Key Necessary Elements in Agency Policies Implementing Authority to Waive Annual Limitation on Premium Pay and Aggregate Limitation on Pay for Certain Federal Civilian Employees Working Overseas (Section 1101 of Public Law 110-417, as Amended, for Calendar Year 2026)

Section 1101 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417, October 14, 2008), as amended, provides a special authority for the head of an agency to waive the normally applicable premium pay cap established in 5 U.S.C. 5547 for certain employees in calendar year 2026. Each agency with covered employees should establish policies for using this waiver authority. To ensure agencies apply this discretionary authority consistently, we are providing a summary of key elements agencies should include in their policies implementing the waiver authority. The summary below includes additional information on employee coverage, approval criteria, and special instructions on applying the waiver authority to employees working in Iraq.

Authority

Section 1105 of Public Law 119-60, December 18, 2025, amends and extends to calendar year 2026 the authority of section 1101 of Public Law 110-417, October 14, 2008, as amended. See list of previous amendments to section 1101 below. Hereafter, all references to “section 1101” in this attachment refer to section 1101 of Public Law 110-417, as amended.

Summary of Key Elements

- Section 1101(a) authorizes the waiver of the normal biweekly or annual premium pay cap under 5 U.S.C. 5547 and establishes a higher annual cap linked to the Vice President’s salary rate established under 3 U.S.C. 104, as explained below.
- The premium pay cap waiver authority under section 1101(a) may be applied in calendar year 2026 to a civilian employee who meets all of the following conditions for coverage eligibility:
 - The employee is covered by 5 U.S.C. 5547 (dealing with limitations on premium pay) or a limitation on premium pay similar to one set forth in 5

- U.S.C. 5547 (as determined by the head of the Executive agency in which such employees are employed).
- The employee is assigned to work in an overseas location and remains in that location for at least 30 consecutive calendar days (unless an authorized agency official grants a waiver of the 30-day requirement in very limited and extraordinary circumstances – for example, where an employee’s 30 consecutive days are interrupted by an unplanned short trip outside the area required by the agency in an emergency situation). (If the employee meets the 30-day requirement, the section 1101 limitation may be applied to days before that requirement was satisfied if the employee was performing work in a covered and approved category on those days. Although section 1101 applies only to payments payable in calendar year 2026, the 30-day period may begin in 2025 and end in 2026 or begin in 2026 and end in 2027.)
 - The employee is assigned to work in an overseas location. An “overseas location” is defined as a location in a foreign area and excludes a location in the contiguous United States or a nonforeign area described in 5 CFR 591.205.
 - At the overseas location described in the bullet above, the employee performs work in direct support of or directly related to (1) a military operation (including a contingency operation, as defined in 10 U.S.C. 101(a)(13)) or (2) an operation in response to a national emergency declared by the President. (“Military operation” is a Department of War (DOW) term of art, defined in the DOW Dictionary of Military and Associated Terms.) Prior to authorizing any premium pay cap waiver under section 1101 on the basis of a military operation, an agency must confirm any DOW operation in countries in which such a waiver is being considered meets the DOW definition.
 - The employee is in a category of employees for whom coverage under section 1101 has been approved by an authorized agency official. (Note: Section 1101 establishes a discretionary authority that agencies may exercise, not an entitlement.)
 - Employees who are granted a waiver under section 1101(a) in calendar year 2026 will be covered by a higher annual premium pay cap in lieu of the normal biweekly and annual premium pay caps under 5 U.S.C. 5547. The employee will

be entitled to premium payments identified in 5 U.S.C. 5547(a), or similar limitation, to the extent it does not cause the employee's combined payable amount of basic pay and premium pay for calendar year 2026 to exceed the annual rate of salary established for the Vice President under 3 U.S.C. 104 (\$292,300 in 2026). (Note: Under section 5547(b), the normally applicable annual limitation is based on certain annual pay rates in effect at the end of the calendar year. Accordingly, the 2026 limitation is based on the Vice President's rate under 3 U.S.C. 104 in effect on December 31, 2026.)

- The higher annual limitation on premium pay established under section 1101(a) applies during calendar year 2026 to an employee's annual aggregate basic pay plus premium pay even after the employee has stopped performing work covered by section 1101. After an employee stops performing covered work, the employee's earnings will again be subject to the biweekly premium pay limitation under 5 U.S.C. 5547, or similar limitation, and the employee could receive payments up to the biweekly premium pay limitation each pay period until the section 1101(a) annual limitation is reached.

Note: If such an employee's aggregate projected basic pay plus premium pay payable for 2026 is less than the annual limit established under 5 U.S.C. 5547, an agency may invoke that annual limit, if appropriate, and pay premium pay in excess of the biweekly limit. (See 5 U.S.C. 5547(b) and 5 CFR 550.106–550.107.) Once the section 5547 annual limit is reached, the employee would be again subject to the section 5547 biweekly limit and simultaneously subject to the section 1101(a) annual limit. If the employee's projected basic pay plus premium pay payable for 2026 already exceeds the section 5547 annual limit, the waiver of the biweekly limit and invoking of the section 5547 annual limit would not provide additional premium pay in any biweekly pay period. Therefore, the normal section 5547 biweekly limit would apply to any premium pay earned for each successive pay period, as long as the employee does not reach the section 1101(a) annual limit. If the employee reaches the section 1101(a) annual limit, the employee may not receive any additional premium pay for pay periods with pay dates falling within calendar year 2026.

- Under section 1101(b), when an employee is granted a section 1101(a) waiver, the aggregate limitation on pay under 5 U.S.C. 5307 will still apply during calendar year 2026, but any pay in addition to basic pay received for service during the waiver period is not counted as compensation in applying the

aggregate limitation. Under the aggregate limitation on pay, payments (other than basic pay) in excess of the aggregate limitation must be deferred and are generally paid as a lump-sum payment at the beginning of the following calendar year. Employees granted a section 1101(a) waiver will be subject to the aggregate limitation in calendar year 2026, but any pay in addition to basic pay during the section 1101(a) waiver period will be exempted in applying the aggregate limitation. In other words, pay in addition to basic pay received for service **outside** of the section 1101(a) waiver period is covered by the aggregate limitation under 5 U.S.C. 5307. However, pay received in addition to basic pay for service **within** the section 1101(a) waiver period is excluded in applying the aggregate limitation under 5 U.S.C. 5307. That is, an employee is able to receive pay in addition to basic pay during the section 1101(a) waiver period that otherwise would have been deferred due to the aggregate limitation on pay.

- Under section 1101(c), any additional premium pay that results from application of the higher premium pay cap under section 1101(a) may not be considered basic pay for retirement or any other purpose, nor may it be used in computing a lump-sum payment for accumulated and accrued annual leave under 5 U.S.C. 5551. Under 5 U.S.C. 5547 and 5 CFR 550.107, various types of premium pay creditable for retirement and other purposes are always subject to a biweekly cap, even in emergencies that would normally trigger the annual premium pay limit. Thus, in applying section 1101(a), an agency should consider any premium pay of a type that is normally basic pay for retirement or other purposes as being paid before any other premium payment and apply the biweekly cap to determine the amount of basic pay creditable for retirement and other purposes. In other words, section 1101(a) would allow these types of premium payments to exceed the normally applicable biweekly limit, but any excess beyond the biweekly limit would be attributable to section 1101(a) and therefore would not be treated as basic pay for retirement or other purposes. Similarly, for premium payments that are normally used in computing an annual leave lump-sum payment, only the portion below the biweekly limit may be used in the computation.
 - *Special Information Related to Employees Working in Iraq:* As noted above, the United States has a contingency operation in Iraq (Operation Inherent Resolve), so the higher premium pay cap can be applied to eligible employees performing qualifying service connected to that operation

through **December 31, 2026**. To be eligible while working in Iraq, employees must be performing work in direct support of, or directly related to, either Operation Inherent Resolve or an operation in response to the current national emergency declared by the President, as described in the Presidential notice of May 9, 2025. *Background:* The President issued a notice on May 9, 2025, that continues the declared national emergency in Iraq for 1 year (through May 22, 2026) to support stabilization efforts. (See the President's [notice](#).) The President modified the scope of the national emergency declared in Executive Order 13303, May 22, 2003, and took additional steps in response to this national emergency through the issuances of additional Executive Orders. Please refer to these orders— Executive Order 13315, August 28, 2003, Executive Order 13350, July 29, 2004, Executive Order 13364, November 29, 2004, Executive Order 13438, July 17, 2007, and Executive Order 13668 of May 27, 2014. Based on this notice, agencies may continue to apply the section 1101(a) waiver authority **through May 22, 2026**, for eligible employees in Iraq based on qualifying service connected to the national emergency. However, since the United States currently has a contingency operation in Iraq (Operation Inherent Resolve), the higher premium pay cap may also be applied to eligible employees working in Iraq in support of that operation on that basis through **December 31, 2026**.

Section 1101 of Public Law 110-417, as Amended, for Calendar Year 2026

Section 1101 of Public Law 110-417, October 14, 2008, as amended by section 1106 of Public Law 111-84, October 28, 2009; section 1103 of Public Law 111-383, January 7, 2011; section 1104 of Public Law 112-81, December 31, 2011; section 1101 of Public Law 112-239, January 2, 2013; section 1101 of Public Law 113-66, December 26, 2013; section 1101 of Public Law 113-291, December 19, 2014; Section 1108 of Public Law 114-92, November 25, 2015; section 1137 of Public Law 114-328, December 23, 2016; section 1105 of Public Law 115-91, December 12, 2017; section 1104 of Public Law 115-232, August 13, 2018; section 1105 of Public Law 116-92, December 20, 2019; section 1105 of Public Law 116-283, January 1, 2021; section 1112 of Public Law 117-81, December 27, 2021; section 1102 of Public Law 117-263, December 23, 2022; section 1105 of Public Law 118-31, December 22, 2023; section 1104 of Public Law 118-159, December 23, 2024; and section 1105 of Public Law 119-60, December 18, 2025.

SEC. 1101. AUTHORITY TO WAIVE ANNUAL LIMITATION ON PREMIUM PAY AND AGGREGATE LIMITATION ON PAY FOR FEDERAL CIVILIAN EMPLOYEES WORKING OVERSEAS.

(a) **WAIVER AUTHORITY.** — During the calendar years 2009 through 2026, and notwithstanding section 5547 of title 5, United States Code, the head of an executive agency may waive the premium pay limitations established in that section up to the annual rate of the salary payable to the Vice President under section 104 of title 3, United States Code, for an employee who performs work while in an overseas location, in direct support of or directly related to—

- (1) a military operation, including a contingency operation; or
- (2) an operation in response to a national emergency declared by the President.

(b) **APPLICABILITY OF AGGREGATE LIMITATION ON PAY.** — In applying section 5307 of title 5, United States Code, any payment in addition to basic pay for a period of time during which a waiver under subsection (a) is in effect shall not be counted as part of an employee's aggregate compensation for the given calendar year.

(c) **ADDITIONAL PAY NOT CONSIDERED BASIC PAY.** — To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

(d) **REGULATIONS.** — The Director of the U.S. Office of Personnel Management may issue regulations to ensure appropriate consistency among heads of executive agencies in the exercise of the authority granted by this section.