No. 24-320

In the Supreme Court of the United States

SIMON A. SOTO, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BRIEF FOR THE UNITED STATES

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QUESTION PRESENTED

Given the Federal Circuit's holding that a claim for compensation under 10 U.S.C. 1413a is a claim "involving * * * retired pay" under 31 U.S.C. 3702(a)(1)(A), does 10 U.S.C. 1413a provide a settlement mechanism that displaces the default procedures and limitations set forth in the Barring Act?

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases: Page

Cases—Continued: Page

Cases—Continued: Page

Constitution, statutes, and regulations:

Statutes and regulations—Continued: Page

Statutes and regulations—Continued: Page

Statutes and regulations—Continued: Page

Statutes and regulations—Continued: Page

Statutes and regulations—Continued: Page

Statutes and regulations—Continued: Page

Miscellaneous—Continued: Page

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-19a) is reported at 92 F.4th 1094. The opinion of the district court (Pet. App. 32a-37a) is unreported but is available at 2021 WL 7286022.

JURISDICTION

The judgment of the court of appeals was entered on February 12, 2024. A petition for rehearing was denied on June 20, 2024 (Pet. App. 40a-41a). The petition for a writ of certiorari was filed on September 18, 2024, and was granted on January 17, 2025. The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

STATUTORY PROVISIONS INVOLVED

Relevant statutory provisions are reproduced in the appendix to this brief. App., *infra*, 1a-24a.

INTRODUCTION

For over 200 years, the government has settled the claims of uniformed service members for pay, allowances, and other benefits pursuant to a broad statutory grant of settlement authority. Today, that law is codified at 31 U.S.C. 3702, and it authorizes the Secretary of Defense to settle all "claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits." 31 U.S.C. 3702(a)(1)(A).[1] For the Secretary to allow such a claim, the claim must generally be presented within six years of its accrual. 31 U.S.C. 3702(b)(1). That well-established framework governs unless "another law" provides a different settlement mechanism, or establishes a different limitations period, for a particular type of claim. 31 U.S.C. 3702(a) and (b)(1)(A).

This case concerns a claim for a type of military pay called combat-related special compensation (CRSC), which supplements service members' retirement pay when certain eligibility criteria are met. Petitioner —a Navy retiree who is eligible for such compensation — sought to receive retrospective CRSC payments covering a roughly eight-year period predating his application, in addition to monthly CRSC payments going forward. When the Department of Defense settled that claim under Section 3702, it limited petitioner's retrospective award to six years of payments. Petitioner objected, arguing that the statute authorizing the payment of CRSC, 10 U.S.C. 1413a, establishes its own settlement mechanism that displaces the Secretary's authority under Section 3702(a)(1)(A). Petitioner further

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[1] All citations to the United States Code are to the current version unless otherwise stated.

argued that, because the CRSC statute says nothing about a time limit, Section 3702's six-year time bar is inapplicable here.

Petitioner's understanding is incorrect. When Congress has intended to displace Section 3702's settlement mechanism in full or in part, it has done so expressly—usually by authorizing an agency or official to "settle" a category of claims, or by specifying alternative timing rules. Congress included no such express statements in Section 1413a. And given the historical backdrop against which the CRSC statute was enacted—a uniform practice of settling claims for past-due military pay and benefits under Section 3702 and its limitations period—it stands to reason that Congress would have spoken clearly had the legislature wanted unpaid CRSC claims to be handled differently.

Petitioner identifies no other form of military compensation for which unlimited retrospective awards are available. He nonetheless maintains that CRSC is the exception, and he argues that Congress's intent to displace Section 3702 can be gleaned from the various details that the CRSC statute covers. He notes, for instance, that Section 1413a explains who is eligible for the CRSC benefit and how to calculate the proper payment amount. And he observes that the statute assigns to the Secretary of the respective military component the responsibility to make certain eligibility determinations and to pay claims.

But all of the features that petitioner identifies in Section 1413a are present in numerous other statutes that authorize various forms of military pay, allowances, and other benefits. That makes sense, because Section 3702 is just a procedural authority; the substantive rules governing any given type of payment must

come from the statute creating that payment. If these unremarkable features of the CRSC statute—either alone or in some indeterminate combination—implicitly supplanted Section 3702's settlement mechanism and its six-year time bar, then the Department of Defense could be exposed to open-ended retrospective liability for all kinds of claims from former service members (and their dependents) for all kinds of past-due amounts.

The court of appeals correctly declined petitioner's invitation to go down that destabilizing path. Veterans like petitioner, who made enormous sacrifices in the line of duty, are no doubt deserving. And under the Department's implementation of the CRSC statute, such veterans are entitled to prospective CRSC payments, as well as six years of retrospective payments, even if they apply long after they first became eligible for this form of pay. They are also eligible under 31 U.S.C. 3702(e) for an equitable waiver of the six-year time bar for additional unpaid amounts up to $25,000. But Congress did not authorize the military components to pay for more than six years of retrospective CRSC in the ordinary course. This Court should affirm.

STATEMENT

A. Legal Background

1. a. Section 3702 of Title 31 of the U.S. Code establishes a uniform mechanism for the settlement of "all claims" "of or against the United States," except where that law is superseded by another claim-settlement statute. 31 U.S.C. 3702(a); see 3 Office of the Gen. Counsel, U.S. Gen. Accounting Office, GAO-08-978SP, *Principles of Federal Appropriations Law* 14-23 to 14-28 (3d ed. 2008) (GAO Red Book). A "claim" means "a right to demand money from the United States." *Hobbs* v. *McLean*, 117 U.S. 567, 575 (1886). "Any federal program that in-

volves the disbursement of funds can generate claims." GAO Red Book 14-11. And the term "settle" in this context means to make a final administrative determination regarding the government's total liability on a claim—that is, to determine the specific amount owed to an individual under the terms of statutory provisions or federal contracts, including any applicable adjustments and offsets. See *id.* at 14-23; Office of Legal Counsel, *Statute of Limitations and Settlement of Equal Credit Opportunity Act Discrimination Claims Against the Department of Agriculture*, 22 O.L.C. 11, 16 (1998) ("The term 'settle' in § 3702 does not mean 'compromise,' but rather refers to an administrative determination of the amount of money (if any) due a claimant.").

The modern Section 3702, and particularly its treatment of military claims, has a long pedigree. In the earliest days of the Republic, financial control was largely reserved in the legislature. See Roger R. Trask, Defender of the Public Interest: The General Accounting Office, 1921-1966, at 2 (1996) (Trask). During the Revolutionary War, the Continental Congress experimented with new systems for processing the growing number of money claims against the United States. *Id.* at 2-4. Shortly after ratification, the First Congress enacted the Treasury Act, which delegated to the Auditor of the Treasury Department the authority to "receive all public accounts," "examin[e] [those accounts] to certify the balance," and send the certification to the Comptroller of the Treasury for payment. Act of Sept. 2, 1789, ch. 12, § 5, 1 Stat. 66-67. The Act further provided that any person dissatisfied with the Auditor's determination could appeal the "settlement" to the Comptroller. *Id.* at 66-67. From this early practice came the understanding that the term "settle," as used in this

context, refers to the authority to examine the relevant public account and make a determination regarding whether (and to what extent) a balance is due to the claimant. See *Illinois Sur. Co.* v. *United States*, 240 U.S. 214, 219 (1916).

In 1792, Congress gave the newly created War Department "settlement" authority over "all accounts relative to the pay of the army, the subsistence of officers, bounties to soldiers," and "the incidental and contingent expenses of the department." Act of May 8, 1792, ch. 37, § 1, 1 Stat. 279-280; see Act of July 16, 1798, ch. 85, § 1, 1 Stat. 610 (granting certain settlement authority to the Department of the Navy). From 1803 to 1806, and again after 1818, Congress also authorized the War Department to make final settlements of military pension claims, including for pensions based on disability and length of service. See William Henry Glasson, *History of Military Pension Legislation in the United States* 248-249, 254, 258 (1900). But the War Department could not keep up with the deluge of war-related claims, "produc[ing] an arrearage in the settlement of the accounts of that Department" that was exacerbated by the War of 1812. 30 Annals of Cong. 26 (1816); see Trask 10.

In response, Congress enacted a law transferring settlement authority over all claims, including military payments, to the Treasury Department. See 30 Annals of Cong. 25; Trask 11. This 1817 statute provided that "all claims and demands whatever, by the United States or against them * * * shall be settled and adjusted in the Treasury Department." Act of Mar. 3, 1817, ch. 45, § 2, 3 Stat. 366; see *Cooke* v. *United States*, 91 U.S. 389, 398 (1875). On its face, the settlement authority conferred by the 1817 Act "was not only comprehensive but

exclusive," consolidating within the Treasury Department the authority to settle all claims. GAO Red Book 14-23.

b. Congress has repeatedly amended this broad grant of settlement authority, which is now codified at 31 U.S.C. 3702. (This brief hereinafter uses the term "Section 3702" to refer to the predecessor statutes as well.) Three kinds of amendments are relevant here.

First, Congress has amended Section 3702 to transfer claims-settlement responsibility from one entity to another. In 1921, Congress transferred this authority from the Treasury to the General Accounting Office (GAO) within the legislative branch. Budget and Accounting Act, 1921, ch. 18, § 305, 42 Stat. 24; see GAO Red Book 14-8. Then, in 1995, Congress transferred this authority to the Office of Management and Budget (OMB). See Legislative Branch Appropriations Act, 1996, Pub. L. No. 104-53, § 211(a) and (b), 109 Stat. 535. OMB, in turn, delegated its authority over various types of claims to other executive branch entities. OMB, *Determination with Respect to Transfer of Functions Pursuant to Public Law 104-53* (June 28, 1996); see GAO Red Book 14-9.

The following year, Congress amended Section 3702 to reflect OMB's delegations of settlement authority. General Accounting Office Act of 1996, Pub. L. No. 104-316, § 202(n), 110 Stat. 3842-3844. As subsequently amended, the relevant provision assigns to the Secretary of Defense the authority to settle "claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits." 31 U.S.C. 3702(a)(1); see Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106-398, Div. A,

§ 664(a), 114 Stat. 1654A-168 (2000).[2] The Secretary of Defense has further delegated to the heads of military components his authority under Section 3702(a)(1)(A) to process and pay these claims. 32 C.F.R. 282.5(c).

Second, Congress has established a statute of limitations for claims falling within Section 3702's scope. In 1940, concerned about stale claims submitted by veterans and civilian employees seeking back pay or allowances "not infrequently from 10 to 25 years after the rights of the claimants arose"—and some even dating from the Spanish-American and Civil Wars—Congress imposed a ten-year claim-submission deadline. S. Rep. No. 1338, 76th Cong., 3d Sess. 2 (1940) (1940 Senate Report); see Act of Oct. 9, 1940, ch. 788, 54 Stat. 1061. Because this 1940 law provided that any untimely claim "shall be forever barred," 54 Stat. 1061, Section 3702 as a whole is often referred to as the "Barring Act." In 1975, Congress reduced the limitations period to six years, conforming Section 3702's administrative-settlement authority to the six-year statute of limitations "applicable to claims filed in administrative agencies and the courts." S. Rep. No. 1314, 93d Cong., 2d Sess. 5-6 (1974); see General Accounting Office Act of 1974, Pub. L. No. 93-604, § 801, 88 Stat. 1959, 1965.

Congress has also created exceptions to this time bar. The 1940 Act extended the statutory period for claims of "person[s] serving in the military or naval forces of the United States" when the claim "accrue[d] in time of war." 54 Stat. 1061. The current Section 3702

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[2] See 31 U.S.C. 3702(a)(2) (delegating to the Office of Personnel Management the authority to settle claims involving federal civilian employees' compensation); 31 U.S.C. 3702(a)(4) (vesting the Office of Management and Budget with the authority to settle all claims not delegated elsewhere).

contains a similar exception. See 31 U.S.C. 3702(b)(2) ("When the claim of a member of the armed forces accrues during war or within 5 years before war begins, the claim must be received within 5 years after peace is established or within [six years after accrual]."). And in 1996 and 1997, Congress authorized the Secretary of Defense to waive the time bar for claims not exceeding $25,000. 31 U.S.C. 3702(e); see National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, § 608, 110 Stat. 2542-2543 (1996); National Defense Authorization Act for Fiscal Year 1998, Pub. L. No. 105-85, Div. A, § 1012, 111 Stat. 1874 (1997); see Bob Stump National Defense Authorization Act for Fiscal Year 2003 (2003 NDAA), Pub. L. No. 107-314, § 635, 116 Stat. 2574 (2002) (amending this waiver authority).

Third, as part of the general recodification of Title 31 in 1982, Congress instructed that Section 3702's claim-settlement procedures apply "[e]xcept as provided in this chapter or another law." 31 U.S.C. 3702(a); see Pub. L. No. 97-258, 96 Stat. 970. Congress also amended Section 3702(b)'s statute of limitations to include a similar exception. 31 U.S.C. 3702(b)(1)(A).

2. The dispute in this case concerns whether Section 3702's limitations period applies to military retirees' claims for unpaid "combat-related special compensation" (CRSC). Although some former uniformed service members are entitled to both military retired pay from the Department of Defense (Department) and disability compensation from the Department of Veterans Affairs (VA), they generally may not receive the full amount of both. See 38 U.S.C. 5304, 5305. Instead, retired service members who wish to receive nontaxable VA disability compensation must waive an equivalent portion of their taxable retired pay. 38 U.S.C. 5305.

This is known as the prohibition on "concurrent receipt." Kristy N. Kamarck, Cong. Research Serv., IF10594, *Defense Primer: Concurrent Receipt of Military Retirement and VA Disability* 1 (updated Dec. 6, 2024) (CRS Concurrent Receipt).

In 2002 and 2004, Congress established two programs —CRSC and Concurrent Retirement and Disability Payments (CRDP)—that relaxed this concurrent-receipt prohibition for certain veterans.

Under the CRSC program, a retired service member whose compensable disability is directly attributable to a "combat-related" event can receive some amount of additional compensation up to the amount of his waived retired pay. 10 U.S.C. 1413a. CRSC initially was payable only to individuals who had completed at least 20 years of military service (called "longevity" retirees).[3] But effective January 1, 2008, all retirees with combat-related disabilities who were eligible for retired pay became eligible for CRSC. National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Div. A, § 641, 122 Stat. 156 (2007). Those eligible persons include retirees who are medically retired due to a disability (called "chapter 61" retirees). 10 U.S.C. 1413a(b)(3)(B).

The provision that authorizes CRSC, 10 U.S.C. 1413a, states that "[t]he Secretary concerned shall pay to each eligible combat-related disabled uniformed ser-

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[3] Initially, CRSC entitlement was limited to retirees whose combat-related disabilities were rated at least 60%, except where a disability was related to an injury for which the individual received a Purple Heart. See 2003 NDAA § 636, 116 Stat. 2574. Congress has since eliminated that requirement. See National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 642, 117 Stat. 1516 (2003).

vices retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree." 10 U.S.C. 1413a(a). Section 1413a(b) explains how to calculate the benefit amount. 10 U.S.C. 1413a(b). Section 1413a provides that the Secretary of Defense "shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree." 10 U.S.C. 1413a(d).

Those procedures and criteria are set forth in regulations and program guidance. See 7B U.S. Dep't of Def., DoD 7000.14-R, *Financial Management Regulation*, Ch. 63 (June 2024) (DoD FMR); J.A. 77-107 (January 2004 Guidance); J.A. 108-113 (January 2008 Supplemental Guidance). Consistent with the text of Section 1413a(a), the regulations specify that a retired service member must first apply for and "elect[]" to receive CRSC. DoD FMR 63-5 to 63-6; see J.A. 80-81. The appropriate military department will then determine whether the retiree meets the "preliminary" eligibility criteria, which include being entitled to retired pay and having a service-connected disability that the VA rates as at least 10% disabling. DoD FMR 63-6 to 63-9, 63-19; J.A. 83-87. The military department will also determine whether the retiree's disability is directly attributable to a combat-related event. DoD FMR 63-9 to 63-11, 63-19; J.A. 87-89. If those criteria are satisfied, the retiree will be found eligible for CRSC, and his application will be forwarded to the Defense Finance and Accounting Service (DFAS) for payment. DoD FMR 63-19; see J.A. 103-104.

The Department's regulations state that a retired service member "may submit an application for CRSC

at any time and, if otherwise qualified for CRSC, compensation will be paid for any month after May 2003 for which all conditions of eligibility were met, subject to any legal limitations." DoD FMR 63-6; see J.A. 81 (stating that "[m]embers may submit an application for CRSC at any time and, if otherwise qualified for CRSC, compensation will be paid retroactively, to the extent otherwise allowed by law, for any month after May 2003, for which all conditions of eligibility were met"). Applicants whose claims are denied may seek reconsideration by submitting additional materials, and they are entitled to the "same appeals and correction processes applicable to military pay and allowances." DoD FMR 63-19; J.A. 95; see 32 C.F.R. Pt. 282, App. E.

Under the other concurrent-receipt authorization, CRDP, retirees with at least 20 years of service who have disabilities rated 50% or more may receive all or part of their retired pay concurrently with their disability compensation. 10 U.S.C. 1414; see National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 641, 117 Stat. 1511. Unlike CRSC, CRDP recipients need not demonstrate that their disabilities are combat-related, and eligible retirees automatically receive the relevant amount of retired pay (which is taxable) by default. CRS Concurrent Receipt 1-2. A retiree who is eligible for CRSC (which is non-taxable) can elect that form of compensation instead, but the retiree cannot receive both. 10 U.S.C. 1413a(a) and (f), 1414(d).

B. Procedural History

1. Petitioner is a retired member of the United States Marine Corps. On April 28, 2006, after six years of service, petitioner was found unfit to perform his duties due to a disability and was placed on the Temporary Disability Retirement List, which entitled him to re-

tired pay as a chapter 61 retiree. J.A. 74-75; see 10 U.S.C. 1202. He was later taken off that list and given permanent disability retirement. J.A. 75; see 10 U.S.C. 1201.

Petitioner applied for service-connected disability compensation from the VA. J.A. 75; see 38 U.S.C. 1110. On June 10, 2009, the VA issued a rating decision finding petitioner eligible for disability compensation for Post-Traumatic Stress Disorder (PTSD), which the VA rated as 50% disabling effective April 29, 2006; 30% disabling effective November 1, 2006; and 100% disabling effective December 31, 2008. J.A. 16, 75.[4] At least once petitioner received the June 2009 VA rating decision (if not earlier, see n.4), he met the criteria to file an application with the Navy electing to receive CRSC. See 10 U.S.C. 1413a(c)-(e); DoD FMR 63-6. Petitioner did not submit a CRSC application, however, until June 2016. J.A. 17.

On October 17, 2016, the Navy sent petitioner a letter determining that petitioner's disability was combat-related and that he was therefore entitled to CRSC payments for each month following his June 2016 application. J.A. 36-38. The Navy also informed petitioner that he could receive "retroactive" CRSC payments for months before his election, but that CRSC was "subject to the 6-year statute of limitations" in Section 3702(b). J.A. 37. The letter explained that, to receive the "full" amount of retroactive CRSC for which petitioner was qualified, petitioner would have had to file his claim "within 6 years of any VA rating decision" that could

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[4] Petitioner's complaint and declaration refer only to a June 2009 VA rating decision. The Department of Defense has informed this Office that petitioner also received a VA rating decision on August 25, 2006, which initially rated his PTSD as 30% disabling.

potentially have made him eligible for CRSC "or the date [he] [became] entitled to retired pay, whichever [was] more recent." *Ibid.*

The Navy's letter did not explain that petitioner could request a waiver of the six-year limit under Section 3702(e). See 32 C.F.R. Pt. 282, App. D, Subsec. (b)(1)(iii) (instructing components to inform claimants of this waiver authority). Petitioner did not request a waiver, and he received six years of retroactive CRSC payments covering the period from July 2010 to June 2016. Pet. App. 4a; see J.A. 37.

2. In March 2017, petitioner filed a class-action suit in the United States District Court for the Southern District of Texas under the Little Tucker Act, 28 U.S.C. 1346(a)(2). J.A. 1. He contended that Section 3702's six-year time limitation does not apply to claims for CRSC, and that no other limitations period or time limit was applicable. J.A. 9. Petitioner alleged that he was entitled to retroactive CRSC payments for months dating back to January 1, 2008—the effective date of the statutory amendment that had expanded CRSC eligibility to include medical retirees with fewer than 20 years of service, see p. 10, *supra*. J.A. 17-18.

The government moved for judgment on the pleadings. The district court denied the motion, J.A. 39-45, holding that the provision authorizing CRSC (Section 1413a) is a "specific" statute that supersedes the more "general" Section 3702, J.A. 45 (citation omitted). The court subsequently certified a nationwide class consisting of former service members "whose CRSC applications under 10 U.S.C. § 1413a were granted, but whose amount of CRSC payment was limited by [the] application of the statute of limitations contained in 31 U.S.C. § 3702" and for whom the amount unpaid is "less than

$10,000." Pet. App. 31a. The court then granted summary judgment for the class, reiterating its view that Section 1413a contains an independent settlement mechanism. *Id.* at 35a; see *id.* at 32a-37a. The court explained that Section 1413a "defines eligibility for CRSC, helps explain the amount of benefits and instructs the Secretary of Defense to prescribe procedures and criteria for individuals to apply for CRSC." *Id.* at 35a-36a.

3. The court of appeals reversed. Pet. App. 1a-11a. The court held that a CRSC application qualifies as a "claim[] involving uniformed service members' * * * retired pay" within the meaning of Section 3702(a)(1)(A). See *id.* at 9a (explaining that CRSC "involve[s]" retired pay because the CRSC award depends upon the fact and amount of the individual's entitlement to retired pay). The court further held that the CRSC statute "does not explicitly provide its own settlement mechanism" displacing Section 3702 and its limitations period. *Id.* at 11a.

The court of appeals observed that, unlike statutes that have been understood to create independent settlement mechanisms, Section 1413a does not contain "specific language authorizing the Secretary of Defense to *settle* a claim" for unpaid compensation. Pet. App. 7a; see *id.* at 6a-7a. The court noted that such authorization "will typically be done by use of the term 'settle,'" but that other formulations—such as "a 'specific' provision setting out the period of recovery" for relief or compensation—may also be used to displace Section 3702 and its limitations period. *Id.* at 7a (citing *Hernandez* v. *Department of Air Force*, 498 F.3d 1328, 1331-1332 (Fed. Cir. 2007)). The court observed that the CRSC statute contains neither of those formulations, but merely "establish[es] a veteran's *substantive*

right to CRSC and authorize[s] its payment." *Id.* at 8a. The court therefore concluded that the CRSC statute "lacks the sort of clear language authorizing the Secretary to settle CRSC claims sufficient for an exception to" Section 3702's military-claim-settlement provisions. *Ibid.*

Judge Reyna dissented. Pet. App. 12a-19a. He would have held that Section 1413a establishes a separate settlement mechanism for retroactive CRSC claims, with no limitations period. Judge Reyna based that conclusion on the fact that Section 1413a defines which retired service members are eligible for CRSC, specifies the monthly amount that the component Secretaries should pay to those retirees, and designates a source of payment. *Id.* at 14a-15a.

SUMMARY OF ARGUMENT

A. This case involves requests for combat-related special compensation, a monthly amount paid to certain retired service members to replace the amount of retired pay they might otherwise have had to forgo. As the case comes to this Court, there is no dispute that a request for unpaid CRSC is a "claim" within the meaning of 31 U.S.C. 3702. There is also no dispute that a CRSC claim is a "claim[] 'involving * * * retired pay'" falling within the Secretary of Defense's settlement authority under 31 U.S.C. 3702(a)(1)(A). As a result, a claim for a month of unpaid CRSC must be submitted within six years of the date the claim accrues, unless "another law" displaces Section 3702(a)(1)(A)'s settlement mechanism or its time bar. 31 U.S.C. 3702(a) and (b)(1)(A). The CRSC statute, 10 U.S.C. 1413a, is not "another law" containing an independent settlement mechanism.

1. In the realm of public-accounting law, to "settle" a claim means to "consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance." 31 U.S.C. 3721(a)(3). Congress has used explicit language—typically including the word "settle"—when it wishes to confer this specialized authority over claims for payment from federal funds. That has been true in the military context specifically.

The statute authorizing CRSC does not contain the sort of explicit language that has been found to convey independent settlement authority. Section 1413a's provisions undoubtedly establish retirees' substantive right to CRSC and authorize the benefit's payment. But those provisions merely complement rather than displace the settlement authority conferred by Section 3702. In *all* its applications, Section 3702 provides only the procedural authority to settle claims administratively. The substantive criteria used to determine whether particular claims will be allowed or disallowed must come from another statutory source, like Section 1413a.

Nor is the CRSC statute "another law" "provid[ing]" a different limitations period for CRSC claims. 31 U.S.C. 3702(b)(1)(A). Nothing in Section 1413a refers to a statute of limitations, effective date, or other timing requirement applicable to CRSC awards. All that petitioner identifies is Section 1413a's instruction about how to calculate the "amount" of compensation for "any month." 10 U.S.C. 1413a(b). In context, that instruction is merely explaining how to make the relevant calculation for any *given* month (as the inputs may be different for different months, even prospectively). It does not suggest that Congress replaced the otherwise-applicable six-year bar in Section 3702(b)(1) with no time limitation at all. And as with Section 3702's settlement au-

thority generally, Congress has elsewhere spoken clearly when it wishes to override the six-year bar for particular claims or in particular circumstances.

2. The historical backdrop against which Section 1413a was enacted also undermines any inference that Congress displaced Section 3702's settlement mechanism *sub silentio*. The Secretary of Defense, like the Comptroller General of the GAO before him, has consistently invoked the Section 3702 authority to settle claims involving back pay, unpaid retirement benefits, and other forms of past-due compensation. The Comptroller General and the Secretary of Defense have likewise applied Section 3702's six-year time limitation to such claims. Petitioner identifies no decision treating any form of military benefit any differently in this regard. Against this well-established practice—and in light of the specific reference to such military-compensation claims in Section 3702(a)(1)(A)—Congress would have been expected to speak clearly had it intended CRSC to be the exception. It did not.

B. Petitioner's contrary arguments are not persuasive.

1. Petitioner does not contend that Section 1413a expressly confers settlement authority or establishes an alternative limitations period for CRSC claims. Instead, he argues that Section 1413a's character as a claim-settlement statute can be inferred from the various substantive and procedural matters the statute addresses. But because military pay is a creation of statute, *every* form of "pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits," 31 U.S.C. 3702(a)(1)(A), can be traced to provisions that—like the CRSC statute—specify who is eligible for the benefit and in what

amount. Numerous other military pay and benefit provisions also authorize government officials to make eligibility determinations; to calculate payment amounts; to accept applications; to issue program regulations; and to make payments.

Thus, Section 1413a is not "flatly different" from other military pay and benefit authorities (Pet. Br. 40), but rather shares many of their standard features. If those commonplace attributes created an independent settlement mechanism, the "another law" exception in Section 3702(a) would swallow the rule in Section 3702(a)(1)(A).

2. Petitioner faults the court of appeals for setting what he views as an overly strict threshold for what qualifies as a settlement statute. But the court recognized that, while such statutes will typically use the word "settle," that is not invariably the case. And petitioner's other critiques of the Federal Circuit's analysis lack merit.

3. Petitioner also offers reasons why Congress might have wanted CRSC—and apparently only CRSC—to be paid retrospectively for any month in the past, no matter how far removed. But none of the features or circumstances he identifies distinguishes the CRSC benefit from other forms of military pay or compensation.

The Department's implementation of the CRSC program gives substantial protections to retirees who fail to submit applications promptly upon becoming eligible for benefits. Because the Department treats CRSC claims as separately accruing on a monthly basis, a retiree who applies for CRSC more than six years after he first becomes eligible can still receive benefits on a prospective basis, as well as six years' worth of retroactive payments measured from the application date. Moreo-

ver, such a retiree may receive *more* than six years of retrospective CRSC payments—up to an additional $25,000—if he seeks and receives a waiver of Section 3702(b)(1)'s time bar. See 31 U.S.C. 3702(e).

The practical consequences of petitioner's position, on the other hand, are potentially far-reaching. This case concerns only claims for past-due CRSC payments and claims of no more than $10,000. But numerous pay and benefit authorities across Title 10 and Title 37 contain the statutory features that petitioner asserts amount—alone or in some combination—to an implicit displacement of Section 3702's six-year time bar. As a result, accepting petitioner's understanding of what suffices to supplant Section 3702 could expose the Department of Defense to considerable retrospective liability on a wide array of military-compensation claims dating well into the past.

4. Finally, petitioner's reliance on the pro-veterans canon is misplaced. Whatever the current vitality of that interpretive principle, it cannot carry the day where, as here, text and context clearly point the other way.

ARGUMENT

A. The CRSC Statute, Section 1413a, Does Not Displace Section 3702's Statute Of Limitations

The resolution of "claims for money against the United States" is a "function which belongs primarily to Congress." *Williams* v. *United States*, 289 US. 553, 569 (1933) (citation omitted). The Constitution vests Congress alone with the power to waive the United States' sovereign immunity from suit, to determine whether to appropriate funds from the Treasury for any monetary claim, and to pay the debts of the United States. U.S. Const. Art. I, § 8, Cl. 1 ("The Congress shall have Power

* * * to pay the Debts * * * of the United States."); U.S. Const. Art. I, § 9, Cl. 7. From these enumerated powers follows the well-established principle that appropriated funds may not be used to satisfy a claim against the United States unless constitutional or statutory authority allows the claim to be pursued and makes funds (or other resources) available for that purpose. See *Office of Pers. Mgmt.* v. *Richmond*, 496 U.S. 414, 430 (1990); *Reeside* v. *Walker*, 52 U.S. (11 How.) 272, 291 (1851).

A necessary corollary of Congress's constitutional power to pay the debts of the United States is the authority to determine how monetary claims may be considered and adjudicated. Congress, in its "discretion," may either "exercise [that authority] directly" or "delegate [it] to other agencies." *Williams*, 289 U.S. at 569 (citation omitted); see U.S. Const. Art. I, § 8, Cl. 1; *United States* v. *Sherwood*, 312 US. 584, 587 (1941). Absent constitutional or statutory authority, federal officers and agents generally lack power to "settle" claims in this manner. See GAO Red Book 14-2 to 14-3, 14-11 to 14-12, 14-20; but see *United States* v. *Corliss Steam-Engine Co.*, 91 U.S. 321, 322-323 (1876) (suggesting that executive officials may have inherent claim-settling authority with respect to contract disputes).

Section 3702 confers "[a]uthority to settle claims" on the Department of Defense. 31 U.S.C. 3702 (title). Section 3702(a) states that, "[e]xcept as provided in this chapter or another law, all claims of or against the United States Government shall be settled as follows." 31 U.S.C. 3702(a). The next paragraph instructs that "[t]he Secretary of Defense shall settle * * * claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued

leave, retired pay, and survivor benefits." 31 U.S.C. 3702(a)(1)(A). And the next subsection provides that such claims must be presented "within 6 years after the claim accrues." 31 U.S.C. 3702(b)(1). Consistent with Section 3702's conferral of settlement authority generally, this limitations period applies "except * * * as provided in this chapter or another law." 31 U.S.C. 3702(b)(1)(A). It is also subject to two military-specific exceptions: the time for presenting claims is expanded for a "member of the armed forces" whose claim accrued before or during war, 31 U.S.C. 3702(b)(2), and "[t]he Secretary of Defense may waive the time limitation[]" for military-pay claims, 31 U.S.C. 3702(e)(1).

This case involves requests for military CRSC pay, a "monthly amount" of "special compensation" that is paid to certain retired service members. 10 U.S.C. 1413a(a). As the case comes to this Court, and in accordance with the Court's reformulation of the question presented, there is no dispute that a request for unpaid CRSC is a "claim" within the meaning of Section 3702. 2025 WL 226844, at *1 (Jan. 17, 2025). There is also no dispute that a CRSC claim is a "claim 'involving . . . retired pay'" falling within Section 3702(a)(1)(A). *Ibid.* (citation omitted); see Pet. App. 9a.

The Department treats claims for unpaid CRSC as "accru[ing]" on a monthly basis. 31 U.S.C. 3702(b)(1). Under that approach, a new claim arises each month for which a retiree (a) is entitled to CRSC and (b) does not (or did not) receive a payment. Because each monthly claim is subject to its own limitations period, a retiree who seeks CRSC benefits more than six years after becoming entitled to them does not forfeit his right to benefits altogether; he is simply limited to six years of retroactive benefits (in addition to benefits going forward)

if he is ultimately found to satisfy the criteria. See J.A. 37; J.A. 51; cf. *Petrella* v. *Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663, 671-672 (2014) (explaining that, under such a "separate-accrual rule," more recent claims may be timely even though earlier claims of the same kind are not).[5]

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[5] No court has decided when a claim for CRSC accrues—*i.e.*, when a retired service member is first entitled to receive a monthly CRSC payment—and the Court need not resolve that issue to decide the question presented. Multiple possibilities are apparent. See Department of Defense Instruction No. 1340.21, at 12 (May 12, 2004) ("A claim accrues on the date when everything necessary to give rise to the claim has occurred."); cf. *Petrella*, 572 U.S. at 670 ("A claim ordinarily accrues 'when [a] plaintiff has a complete and present cause of action.'") (citation omitted; brackets in original). The Department's CRSC regulation states that "[a] retiree is entitled to CRSC for each month during which, for the entire month, the member * * * [h]as applied for and elected CRSC" and meets all applicable criteria. DoD FMR 63-5. That could suggest that entitlement to CRSC arises only when a retiree actually elects to receive CRSC (instead of CRDP, for instance). See 10 U.S.C. 1413a(a) (instructing that the Secretary concerned shall pay CRSC to "each eligible combat-related disabled uniformed services retiree who elects benefits under this section"); see p. 12, *supra*. Another possibility is that CRSC entitlement arises once the retiree receives a VA rating determining that the retiree has "a disability that is compensable under the laws administered by [the VA]," 10 U.S.C. 1413a(e), if the rating issues after the date the retiree became entitled to retired pay. Cf. J.A. 37. Alternatively, the CRSC entitlement could arise earlier, upon the earliest effective date of the VA rating. Cf. J.A. 10.

Petitioner believes that his entitlement to CRSC accrued on January 1, 2008, the date when Congress's expansion of the CRSC benefit to chapter 61 retirees (like petitioner) became effective, even though petitioner did not elect to receive CRSC until several years thereafter. See Pet. Br. 12; J.A. 17. In this litigation, the Department has agreed with that understanding. See J.A. 53 (DFAS official stating that "the change in the law acted as the triggering point

This case presents the question whether the statute that created CRSC and authorizes its payment, 10 U.S.C. 1413a, is "another law" that displaces the Defense Secretary's authority to settle military-pay claims under Section 3702(a)(1)(A), or "another law" that displaces Section 3702(b)(1)'s waivable six-year limitations period. The answer is no.

1. Section 1413a lacks the express language necessary to confer claim-settlement authority or to displace Section 3702's limitations period

a. "The word 'settlement' in connection with public transactions and accounts has been used from the beginning to describe administrative determination of the amount due." *Illinois Sur. Co.* v. *United States*, 240 U.S. 214, 219 (1916). Citing several of the laws discussed above, including Section 3702's predecessors, the Court in *Illinois Surety* explained that to "settle[] and adjust[]" an account means to make "the determination * * * for administrative purposes of the state of the account and the amount due." 240 U.S. at 219; see 2 Op. Att'y Gen. 518 (1832) (explaining that settlement requires "a sum found and reported to be due").

Conclusively determining the amount "due" on a claim involves more than assessing whether the claim has merit or calculating what the claimant might be owed under the terms of a statute. It may also entail, for instance, auditing the relevant account, making adjustments for any applicable debts or offsets, and effecting a final disposition. Consistent with that historical understanding in the realm of public-accounting law,

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for [petitioner's] claim to 'accrue,'" and that the "first date that the conditions existed that would entitle [petitioner] to CRSC was January 1, 2008").

numerous provisions throughout the United States Code define the word "settle" to mean "consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance." 31 U.S.C. 3721(a)(3); see 10 U.S.C. 2731, 7801, 8821(b), 9801; 32 U.S.C. 715(h); 38 U.S.C. 515(a)(2) (all similar).[6]

b. Congress has used explicit language to vest particular executive branch departments or officials with specialized settlement authority over particular categories of claims. See Pet. App. 6a-7a. For example, Congress has authorized the Postal Service to conduct "the final settlement of all claims and litigation by or against" it. 39 U.S.C. 2008(c). Similarly, the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*, provides that the authority to administratively "consider, ascertain, adjust, determine, compromise, and settle" a tort claim belongs to the agency from whose operations the claim arose, subject to a two-year statute of limitations. 28 U.S.C. 2672; see 28 U.S.C. 2401(b); see also 31 U.S.C. 3724(a) (conferring on the Attorney General the authority to "settle" other tort claims arising out of Department of Justice activities, subject to a one-year statute of limitations).

Congress has used similarly explicit language in conferring alternative settlement authority over military-related claims. In the Military Claims Act, 10 U.S.C. 2731 *et seq.*, for instance, Congress assigned to the component Secretaries authority to "settle, and pay in an amount no more than $100,000, a claim against the United States for" certain torts by service members and

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[6] Section 3702 originally used the phrase "settled and adjusted." 3 Stat. 366. In 1982, when Congress reenacted Section 3702 as part of the recodification of Title 31, the word "'adjusted'" was "omitted as surplus." 31 U.S.C. 3702 (historical and revision notes).

civilian employees, subject to a two-year statute of limitations. 10 U.S.C. 2733(a) and (b)(1); see 10 U.S.C. 2735 (providing that such settlements are "final and conclusive"); see also *The Honorable Slade Gorton*, No. B-215494, 1984 WL 46509, at *2 (Comp. Gen. Sept. 4, 1984) (explaining that the Military Claims Act "specifically authorize[s]" the military departments to "settle [claims] administratively").

The Foreign Claims Act grants similar authority to military component heads to "settle" claims based on certain conduct abroad, also subject to a two-year limitations period. 10 U.S.C. 2734(a) and (b). And other laws use analogous phrasing. See 10 U.S.C. 2734b(a) (authorizing the "settlement" of foreign claims pursuant to international agreements); 10 U.S.C. 2737(a) and (e) (conferring on the component Secretaries the authority to "settle" vehicular claims, subject to a two-year statute of limitations); 31 U.S.C. 3721(b)(1) and (g) (authorizing the Secretary of Defense and component Secretaries to "settle" claims for "loss of[] personal property incident to service," subject to a two-year statute of limitations).

To be sure, other statutory formulations that do not use the word "settle" have been found to confer settlement authority for particular classes of claims. In context, the authority to accept the submission of a "claim" within a specific limitations period and then to issue a "decision" on that claim can suffice. See 41 U.S.C. 7103(a), (d), and (g) (authority to accept and decide contract claims); see also 41 U.S.C. 7103(c)(1) (instructing that this authority does not authorize a contracting officer to "settle" claims involving fraud); see GAO Red Book 14-22 (identifying 41 U.S.C. 7103, formerly codified at 41 U.S.C. 604, as a claim-settlement statute).

Language authorizing the Secretary of Defense to accept the "fil[ing]" of, and then to "allow[]," "claim[s]" for the sales proceeds of the effects of deceased service members—coupled with a submission deadline—has likewise been understood to confer settlement authority. 24 U.S.C. 420(d); see 32 C.F.R. Pt. 282, App. B, Subsec. (d) (identifying 24 U.S.C. 420 as a claim-settlement statute); see also 10 U.S.C. 2575(d)(1) (similar). Language authorizing an executive branch entity to "sue and be sued" and to "determine the character and necessity of its expenditures" has also been found sufficient. See GAO Red Book 14-23, 14-26 (citing Comptroller General decisions dating to 1948).[7] Regardless of the precise language used, Congress's intent to grant an agency authority to accept, determine, adjust, and

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[7] The GAO issued the first edition of the Red Book in 1982, months before Congress amended 31 U.S.C. 3702(a) to clarify that "another law" can supplant the statute's settlement mechanism or its limitations period. See 96 Stat. 970; 31 U.S.C. 3702 (historical and revision notes); GAO, *Principles of Federal Appropriations Law* (1st ed. June 1982) (1982 GAO Red Book). At that time, Section 3702's settlement authority rested with GAO. See p. 7, *supra*. Like today's Red Book, the 1982 Red Book recognized that a "specific" conferral of settlement authority "will take precedence" over Section 3702, and the treatise listed several of the examples above. 1982 GAO Red Book 11-8 to 11-10. The 1982 Red Book also observed that, "[i]n the absence of legislation *expressly placing the authority elsewhere*," GAO's "claims settlement jurisdiction under [Section 3702]" controls. *Id.* at 11-9 (emphasis added). That contemporaneous explanation of what kind of law suffices to displace Section 3702—issued by the legislative branch entity then charged with responsibility under the statute—is probative. Cf. *Loper Bright Enters.* v. *Raimondo*, 603 U.S. 369, 394 (2024). More generally, this Court has relied upon the GAO Red Book as an authoritative source regarding federal appropriations law. See, *e.g.*, *Maine Cmty. Health Options* v. *United States*, 590 U.S. 296, 308-309, 312-313, 315, 317, 324 (2020).

conclusively dispose of a request for appropriated funds must be clear.

c. The statute authorizing CRSC, Section 1413a, does not meet this standard. Section 1413a does not authorize any military department or official to "settle," "allow," or "dispose of" a retired service member's request for unpaid compensation. It does not use the word "claim." And it does not specify when such a request must be submitted.

Instead, the statute defines who is "eligible" for CRSC, 10 U.S.C. 1413a(a), (c)-(e), and (i); provides instructions on how to calculate the payment amounts, 10 U.S.C. 1413a(b); and authorizes the component Secretaries to make those payments to eligible retirees who elect the benefit, 10 U.S.C. 1413a(a). Those provisions undoubtedly "establish a veteran's substantive right to CRSC and authorize its payment." Pet. App. 8a (emphasis omitted). But statutory provisions that address those subjects complement rather than displace the settlement authority conferred by Section 3702. In *all* its applications, Section 3702 provides "only the procedural authority to settle claims administratively"—the "substantive criteria" used to determine whether particular claims will be allowed or disallowed must come from another source. GAO Red Book 14-26. Section 1413a's provisions supply the necessary substantive criteria, but unlike the statutes above, those provisions do not say anything about *settlement* authority. And "when, as here, Congress has shown that it knows how to adopt the omitted language or provision," "[a]textual judicial supplementation is particularly inappropriate." *Rotkiske* v. *Klemm*, 589 U.S. 8, 14 (2019).

Section 1413a does touch on procedural matters as well, by instructing the Secretary of Defense to "pre-

scribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree." 10 U.S.C. 1413a(d). But that directive is entirely consistent with the settlement authority granted to the Secretary of Defense in Section 3702(a)(1)(A). And if Congress had intended to confer on component Secretaries a distinct authority to conclusively allow or disallow CRSC claims, permitting those Secretaries to "consider[]" a retiree to be "an eligible combat-related disabled uniformed services retiree" would be a roundabout way to achieve that result. *Ibid.*

As explained further below, all of Section 1413a's salient textual features are common to other military pay and benefit statutes, including those governing forms of pay and compensation that are expressly referenced in Section 3702(a)(1)(A). See pp. 35-40, *infra*. The authority to settle claims for unpaid CRSC, on the other hand, encompasses the authority to render a final and conclusive determination as to the total balance owed to the claimant. As a practical matter, this involves a review of the retiree's records to determine whether the retiree has any existing obligations to the United States government that would require an offset, such as an administrative offset to recover a debt owed to the United States or a garnishment for child support or alimony. See, *e.g.*, 31 U.S.C. 3716, 3720D, 3728. It also requires review of whether the retiree is seeking payment for which the retiree previously received CRDP, which would prohibit the retiree from receiving CRSC for that same month. See 10 U.S.C. 1414(d); J.A. 63-64. It requires an assessment of how the CRSC calculation may have changed over time as the applicable law or the re-

tiree's circumstances changed. See J.A. 48, 52. And it requires a determination of whether another entity (namely, the VA) is required to pay part of the claim. J.A. 64-68 (explaining why this can sometimes happen in settling claims for past-due CRSC).

d. Nor is the CRSC statute "another law" that displaces the six-year limitations period in Section 3702(b)(1). 31 U.S.C. 3702(b)(1)(A). Nothing in Section 1413a "provide[s]" a statute of limitations or other timing requirement. *Ibid.* Nor does Section 1413a contain rules regarding the "effective date" of CRSC awards. Cf. 38 U.S.C. 5110 (providing effective-date rules for awards of VA disability compensation); 37 U.S.C. 351(d) (providing effective-date rules for hazardous-duty pay).

In arguing otherwise, petitioner points (Br. 9) to one of Section 1413a(b)'s instructions about how to calculate the "amount" of compensation. That instruction provides (with some detail omitted) that "the monthly amount to be paid an eligible combat-related disabled uniformed services retiree under subsection (a) *for any month* is the amount of compensation to which the retiree is entitled under title 38 for that month," but in no event more than "the amount of the reduction in retired pay that is applicable to the retiree for that month." 10 U.S.C. 1413a(b)(1) and (2) (emphasis added). In context, that instruction merely conveys that for *any given month*, the amount of CRSC is tied to the amount of VA disability compensation that the retiree is entitled to receive for *that same month*. See 10 U.S.C. 1413a(b)(2) (using "for any month" in the same sense). That clarification makes sense because the amount of a retiree's VA disability compensation may change over time. But this calculation instruction is not fairly read as imposing an open-ended obligation to pay retrospective CRSC.

While Section 1413a(b) may not foreclose a retrospective compensation award, it does not supplant the generally applicable six-year cap in Section 3702(b)(1).

As with claim-settlement authority generally, when Congress has sought to displace that time limitation for a class of claims, it has done so through unambiguous language, as the examples above show. See pp. 25-26, *supra*. Indeed, just last year, Congress amended a benefits statute to expand Section 3702's six-year period in one limited circumstance. See Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub. L. No. 118-159, Div. A., § 632(a), 138 Stat. 1937 (2024). Specifically, Congress amended a statute that governs tax-free payments to the survivors of service members who die while on active duty—called "death gratuities"—to specify that, "[i]n the case of a claim for a death gratuity under this chapter by a[] [survivor] who is younger than 21 years of age" at the time of the service member's death, "the [survivor] shall file the claim * * * not later than the later of" three years after the survivor turns 21, or "the date that is six years after the date of the death." 10 U.S.C. 1480(e). Because the death-gratuity provisions do not elsewhere provide a limitations period, see 10 U.S.C. 1475-1480, this amendment would *disadvantage* young survivors if Congress did not understand Section 3702(b)(1)'s six-year period to govern by default. In another example, when Congress imposed a shorter limitations period on federal civilian-employee claims for overtime pay under the Fair Labor Standards Act of 1938, the provision as amended expressly referenced Section 3702. See *Adams* v. *Hinchman*, 154 F.3d 420, 423 (D.C. Cir. 1998) (per curiam) (discussing Pub. L. No. 103-329, § 640, 108 Stat. 2432 (1994), and

the amendment to that law in Pub. L. No. 104-52, 109 Stat. 468 (1995)), cert. denied, 526 U.S. 1158 (1999), and 546 U.S. 811 (2005).

Section 1413a contains no such language. To the contrary, it does not address the timing or effective date of CRSC applications at all. Congress should not be understood to have supplanted Section 3702(b)(1)'s limitations period—again, a rule that Congress specifically envisioned would apply to "claims involving * * * retired pay" like CRSC—through silence. 31 U.S.C. 3702(a)(1)(A).

2. Longstanding settlement practice confirms that explicit statutory language is required to displace the Secretary's Section 3702 authority

The court of appeals' search for "explicit[]" or "specific" language displacing Section 3702 and its limitations period, Pet. App. 6a, is further supported by the legislative and executive branches' uniform practice of using Section 3702 to settle military pay and benefit claims. This "historical context" properly informs the interpretation of Section 1413a. *Waetzig* v. *Halliburton Energy Servs., Inc.*, 145 S. Ct. 690, 700 (2025).

This Court "presume[s] that 'Congress is aware of existing law when it passes legislation.'" *Mississippi ex rel. Hood* v. *AU Optronics Corp.*, 571 U.S. 161, 169 (2014) (citation omitted); see *Republic of Hungary* v. *Simon*, 145 S. Ct. 480, 494 (2025) (taking account of the "legal and historical backdrop" against which Congress drafted legislation) (citation omitted). When Congress created the CRSC benefit in 2002, see p. 10, *supra*, it was well established that Section 3702 and its six-year limitations period apply to military-compensation claims. The Comptroller General of the GAO up until 1995, and the Secretary of Defense thereafter, have consistently relied on the Section 3702 authority to set-

tle claims involving pay, retired pay, allowances, and other forms of compensation claimed by service members or their survivors. And in doing so, those officials have applied Section 3702's limitations period to bar untimely claims altogether or limit the amount of retroactive compensation the claimant may receive.[8]

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[8] See, *e.g.*, *In re Maximo G. Fernandez*, No. B-167750, 1969 WL 3637, at *1 (noting that Section 3702 governs "[a]ll claims for military pay and allowances" and finding claim for arrears of pay barred by statute of limitations) (Comp. Gen. Sept. 5, 1969); *Secretary of Defense*, No. B-178979, 1973 WL 8741, at *1-*3, *6-*7 (Aug. 31, 1973) (claims for retroactive payment of family-separation allowance and quarters allowance subject to Section 3702's statute of limitations); *In re Lieutenant Colonel David E. Keen*, No. B-193181, 1979 WL 12519, at *1-*2 (Comp. Gen. May 22, 1979) (claim for unpaid retired pay that "accrued more than 6 years prior to the date" claim was filed "is barred" under Section 3702); *In re Sergeant James W. Mobley*, No. B-196632, 1979 WL 11737, at *1-*2 (Comp. Gen. Dec. 4, 1979) (claim for unpaid installments of variable reenlistment bonus barred by Section 3702); *In re Lieutenant Colonel Oran S. Emrich*, No. B-218902, 1985 WL 53069, at *1 (Comp. Gen. Aug. 1, 1985) (in rejecting claim for unpaid retired pay, explaining that "[w]e have consistently held that compliance with the 6-year statute of limitations is a condition precedent to the right to have a claim considered"); *In re Augusto A. Dumlao*, No. B-227583, 1988 WL 226970, at *1-*2 (Comp. Gen. Apr. 13, 1988) (claim for unpaid death gratuity arising from World War II service barred by Section 3702's statute of limitations); *In re Application of the Barring Act to Annuity Claims*, 71 Comp. Gen. 398, 398-401 (1992) (claims for unpaid Survivor Benefit Plan annuities barred by Section 3702's statute of limitations); *In re Master Sergeant Henry W. Schuchardt*, No. B-274195, 1996 WL 576970, at *3 (Comp. Gen. Oct. 8, 1996) (claim for unpaid non-regular-service retired pay limited by Section 3702's statute of limitations); *In re [Redacted], Claimant*, No. 96080209, 1997 WL 33419105, at *1 (D.O.H.A.C.A.B. Feb. 19, 1997) (Section 3702's statute of limitations barred claim for back pay dating to service in World War II); *In re [Redacted], Claimant*, No. 98032612, 1998 WL 838926, at *1 (D.O.H.A.C.A.B. June 9, 1998)

Indeed, other than the district court decision in this case and a Court of Federal Claims decision in another CRSC class action, see *Paige* v. *United States*, 159 Fed. Cl. 383 (2022), petitioner identifies no Comptroller General, Department of Defense, or judicial decision finding Section 3702(b)(1)'s limitations period inapplicable to any form of military compensation in Title 10 or Title 37. Nor does petitioner suggest that GAO and the Department of Defense have been wrong to apply that limitations period to all those other forms of compensation. Rather, petitioner appears to view CRSC as unique. But given the well-established practice of subjecting military-compensation claims to the six-year time bar, Congress would have been expected to speak clearly had it intended CRSC to be treated differently. And "[h]ad the drafters of [Section 1413a] intended" that exceptional meaning, "they 'easily could have drafted language to that effect'"—by using the statutory models above. *Kemp* v. *United States*, 596 U.S. 528, 534 (2022); see pp. 25-26, *supra*.

B. Petitioner Is Mistaken In Interpreting Section 1413a To Establish An Alternative Settlement Mechanism With No Limit On Retrospective Payments

Petitioner's arguments in favor of reversal lack merit. He interprets Section 1413a to confer settlement authority—and thereby implicitly override the six-year time bar—on the basis of statutory features that are shared by numerous other military pay and benefit statutes. He criticizes the court of appeals for adopting a

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(claim for voluntary separation incentive barred by Section 3702's statute of limitations); *In re [Redacted], Claimant*, No. 99071918, 1999 WL 1448190, at *2 & n.2 (D.O.H.A.C.A.B. Oct. 29, 1999) (claim for allegedly wrongful deductions from retired pay would be limited by Section 3702's statute of limitations).

rigid test that the court did not in fact adopt. His theories for why Congress might have intended to treat CRSC exceptionally do not withstand scrutiny. And he fails to grapple with the logical ramifications of his approach to the statutory interpretation question in this case.

1. The CRSC statute closely resembles other military-compensation statutes under which claims are subject to Section 3702(a)(1)(A)

a. Petitioner does not dispute that Section 1413a lacks an express grant of settlement authority or an alternative limitations period for CRSC claims. Instead, he argues that Section 1413a's character as a claim-settlement statute can be inferred from the various substantive and procedural matters the provision addresses.

But because military pay is a creation of statute, *every* claim involving "pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits," 31 U.S.C. 3702(a)(1)(A), can be traced to provisions that—like the CRSC statute—specify who is eligible for the compensation or benefit and what amount the individual should receive. The statutes governing basic pay, for example, specify which individuals are "entitled" to receive such pay, 37 U.S.C. 204, 206(a) and (c), and how to compute the monthly amount, see 37 U.S.C. 203, 205.

The same is true of survivor benefits, which are also explicitly covered by Section 3702(a)(1)(A). For instance, 10 U.S.C. 1448 and 1450 define who is "eligible" to participate in the military's survivor benefit plan and who should receive annuities under that plan, and 10 U.S.C. 1451 explains how that annuity amount is "determined." Likewise, a series of provisions define eligibil-

ity for and prescribe the amount of death-gratuity payments. See 10 U.S.C. 1475-1480.

So too for retired pay, another category covered by Section 3702(a)(1)(A). The numerous statutes governing that benefit explain in detail who is eligible and how to calculate the monthly amount.[9]

b. Accordingly, petitioner appears to accept that a military-compensation statute does not displace Section 3702 simply by establishing eligibility and payment-calculation rules—even detailed ones. See Pet. Br. 39-41. Instead, petitioner argues that what "distinguish[es]" the CRSC statute from other compensation statutes is that the CRSC statute authorizes "the Secretary concerned to determine eligibility and amount due" and "to pay CRSC claims." *Id.* at 19. Petitioner is mistaken: those are standard features of military-compensation statutes.

Eligibility determinations. Numerous pay and benefit statutes authorize officials to make various eligibility determinations. For instance, a provision that governs travel allowances—another category of pay covered by Section 3702(a)(1)(A)—authorizes "the administering Secretary" to "determine[]" who "warrant[s]" travel benefits for certain purposes. 37 U.S.C. 451(a)(2)(H). Under one of the statutes governing chapter 61 retired pay, "the Secretary concerned" makes the "determina-

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[9] For longevity retirees, the eligibility criteria and amount are addressed at 10 U.S.C. 7311-7329, 7361-7362 (Army); 10 U.S.C. 8321-8327, 8333 (Navy and Marine Corps); and 10 U.S.C. 9311-9329, 9361 (Air Force and Space Force). For chapter 61 retirees, eligibility is addressed at 10 U.S.C. 1201-1202 and 1204-1205, and the amount is calculated under 10 U.S.C. 1401. For those who retire after nonregular service, eligibility is addressed at 10 U.S.C. 12731, and the amount is computed under 10 U.S.C. 12739.

tion" that a service member should be retired due to a disability. 10 U.S.C. 1201(a) and (b); see 10 U.S.C. 1216(b) and (d). And in carrying out the survivor benefit program, "the Secretary concerned" may "determine" whether a service member is presumed dead (thereby triggering payment). 10 U.S.C. 1450(*l*)(1)(A). Other examples abound. See 10 U.S.C. 1059(*l*) (compensation to dependents of members separated for dependent abuse), 1174(a)(2) (separation pay), 1175a(b)(3) (voluntary separation pay), 1476(a)(2) (death gratuities), 1479(1) (same), 1480(c) (same), 1591(a) (travel and transportation expenses when accompanying members of Congress); 37 U.S.C. 331(b)(2) and (d) (enlistment bonuses).

Determination of amount. In asserting that the CRSC statute authorizes the Secretary concerned to "'determine[]' the amount due" (Pet. Br. 31), petitioner elides the provision's precise language. While Section 1413a refers to the monthly amount of pay being "determined," and to the "determination" of that amount, that calculation function is not expressly assigned to the component Secretary in the same way that the payment function is. Compare 10 U.S.C. 1413a(a) with 10 U.S.C. 1413a(b). But even if Section 1413a is best read to identify the "Secretary concerned" as the person who should make the relevant determinations, that would not distinguish Section 1413a. Many military pay and benefit statutes assign to specified officials the responsibility for calculations or determinations bearing on what should be paid. See 10 U.S.C. 1174(a)(2) (separation pay), 1175a(f) (voluntary separation pay); 37 U.S.C. 206(d)(2) (basic pay for non-regular service), 331(c)(1) (enlistment bonuses), 356(b) and (c) (continuation pay), 405(b) (travel and transportation allowance outside the conti-

nental United States), 910(a) (replacement of lost reservist income). Those provisions have not been understood to confer settlement authority or to displace Section 3702(b)(1)'s limitations period.

Payment authority. As for Section 1413a(a)'s directive that "[t]he Secretary concerned shall pay" CRSC to eligible recipients, 10 U.S.C. 1413a(a), it is not clear why petitioner views that language to suggest that Section 1413a confers settlement authority. Petitioner himself recognizes that "*settlement* of a claim is a distinct step that precedes *payment* of a claim." Pet. Br. 22; see *id.* at 32. In *Illinois Surety*, this Court distinguished between the terms "final payment" and "final settlement," explaining that "in view of the significance of ['final settlement'] in administrative practice, it is hardly likely that it would have been used had it been intended to denote payment." 240 U.S. at 218-219. And in *Cooke* v. *United States*, 91 U.S. 389 (1875), the Court explained that a subordinate treasury official was authorized to pay out federal funds, but had "no authority to settle and adjust, that is to say, to determine upon the validity of, any claim against the government." *Id.* at 399-400.

Regardless, a grant of payment authority to an official, including the Secretary of Defense or "the Secretary concerned," is also a commonplace feature of military pay and benefit statutes. See 10 U.S.C. 1047(a), 1052(a), 1053(a)(1), 1059(a) and (d), 1124(a), 1175(a)(1), 1175a(a), 1448(d)(6)(A) and (f)(1) and (2), 1475(a), 1476(a)(1), 1479(2), 1482(a), (b), (d)(2), and (e)(1) and (2), 1593(a), 1596(a); 37 U.S.C. 331(a), 352(a), 356(a) and (c), 372(a), 402(d), 405(a), 453(a) and (h), 910(a). Petitioner does not argue that those other statutes confer independent settlement authority that displaces Section

3702(a)(1)(A) and Section 3702(b)(1). Indeed, some of those statutes apply to the death-gratuity benefit, a form of compensation that is unquestionably subject to Section 3702(b)(1)'s limitations period except in one specified circumstance. See p. 31, *supra*.

c. The various other features of Section 1413a that petitioner highlights are similarly unremarkable.

Application. Petitioner notes (Br. 18) that the CRSC statute requires the relevant component Secretary to accept and consider an application before issuing payment. But the CRSC process is similar to that governing non-regular (reserve) retired pay under 10 U.S.C. 12731. A service member first becomes eligible for such pay after the member has completed the required years of service and reached 60 years of age, and the member must then submit an "application" to the relevant component Secretary before receiving pay. 10 U.S.C. 12731(a) and (b). Certain allowances also require an application to the Secretary of Defense. See, *e.g.*, 37 U.S.C. 402a(c) and (g)(1). Same with survivor annuities based on a presumption of death. 10 U.S.C. 1450(*l*)(1)(A).

Authority to prescribe regulations. Petitioner further observes that Section 1413a(d) directs the Secretary of Defense to "prescribe procedures and criteria under which" retirees may apply to be considered eligible for CRSC. Pet. Br. 18. Such regulatory authority likewise appears in other military pay and benefit statutes, both for procedural and substantive requirements. See 10 U.S.C. 1052(f), 1053(c), 1059(m), 1124(g), 1174(j)(1), 1175(b)(3), 1175a(a) and (b)(1)(D), 1216(a), 1455(a), 7314; 37 U.S.C. 204(b), (c)(3) and (i)(4), 206(a) and (b), 356(h), 402(i)(1), 452(a).

Source of payment. Petitioner notes (Br. 32) that Section 1413a designates the source of CRSC payments (the Military Retirement Fund). See 10 U.S.C. 1413a(h). But retired pay and survivor annuities are also paid out of the Military Retirement Fund. See 10 U.S.C. 1463(a). And other military pay and benefit statutes designate a payment source. See 10 U.S.C. 1053(b), 1124(e), 1175(g), 1480(d), 1593(d). In asserting that this statutory detail is nonetheless "telling," petitioner relies (Br. 32) on a passage in the GAO Red Book. But that passage merely observes that, when trying to determine the source of funds to pay a claim, one place to look is the settlement statute. GAO Red Book 14-45. The treatise does not say that settlement statutes invariably specify funding sources; to the contrary, it notes that such statutes can be "silent with respect to payment." *Ibid.*

d. In short, Section 1413a is not "flatly different" (Pet. Br. 40) from other military pay authorities. To the contrary, the features of Section 1413a that petitioner invokes appear in the mine-run of provisions scattered across Titles 10 and 37. If these commonplace features created an independent settlement mechanism, the "another law" exception in Section 3702(a) would virtually swallow the rule in Section 3702(a)(1)(A).

Thus, taken to its logical conclusion, petitioner's approach could create a gaping exception to Section 3702(b)(1)'s six-year limitations period, thereby substantially increasing the Department of Defense's exposure to retroactive liability. At a minimum, employing the kind of inquiry petitioner calls for here—under which the myriad details included in pay and benefit statutes may or may not add up to a displacement of Section 3702, depending on the precise combination of features—threatens to destabilize the Department's

administration of a wide variety of military-compensation programs. The Court should not invite that confusion and uncertainty.

2. The court of appeals correctly held that the CRSC statute does not supplant Section 3702

Petitioner argues that the court of appeals adopted a rigid and arbitrary test for assessing whether a particular provision confers independent settlement authority. Pet. Br. 33-42. Those criticisms lack force.

Petitioner asserts (Br. 37-38) that the court of appeals improperly required Congress to use "magic words" to displace Section 3702. But the court did not hold that a statute *must* use the term "settle" to grant independent settlement authority. Rather, the court observed that such authorization requires "specific language" and "will *typically* be done by use of the term 'settle.'" Pet. App. 7a (emphasis added). And that observation was consistent with the treatise issued by GAO, the legislative-branch entity that previously exercised claim-settlement authority under Section 3702. See p. 27 & n.7, *supra*.

The court of appeals recognized that other formulations may suffice. That is evident from the court's citation (Pet. App. 7a) of its decision in *Hernandez* v. *Department of Air Force*, 498 F.3d 1328 (Fed. Cir. 2007), which held that a provision of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. 4301 *et seq.*, is "another law" that displaces Section 3702. The *Hernandez* court observed that "the period for recovery" for federal employees' claims for back pay and back leave under USERRA "is governed exclusively by 38 U.S.C. § 4324(c)," 498 F.3d at 1331, a provision that authorizes the Merits Systems Protection Board (MSPB) to adjudicate complaints and

issue remedial orders "without regard as to" whether a claim "accrued" before or after the date of USERRA's enactment, 38 U.S.C. 4324(c)(1) and (2). In other words, the Federal Circuit reasoned that although this USERRA provision does not use the word "settle," it grants the MSPB exclusive jurisdiction to adjudicate and provide relief for USERRA claims, regardless of when the claim accrued. Section 1413a, by contrast, contains no equivalent jurisdictional or timing provisions.

Petitioner also argues that the court of appeals misunderstood Section 1413a to address only "who may be *eligible* for CRSC payments," Pet. Br. 39 (quoting Pet. App. 7a), while overlooking Section 1413a's provisions authorizing the Secretary concerned to consider CRSC applications and to make payments, see *id.* at 40. But the court elsewhere observed that "the appropriate military department will determine whether the service member is eligible," Pet. App. 2a; see *id.* at 6a, and that the CRSC statute "authorize[s]" the "payment" of CRSC, *id.* at 8a; see *id.* at 7a. The court thus did not overlook those provisions; it simply viewed them as addressing subjects distinct from settlement. And as discussed, those other features of Section 1413a do not displace Section 3702(a)(1)(A). See pp. 36-40, *supra*.

Finally, petitioner quarrels with the court of appeals' observation that—in the absence of language conveying settlement authority—"the CRSC statute cannot displace the Barring Act, unless another statute provides a 'specific' provision setting out the period of recovery." Pet. App. 7a; see Pet. Br. 41-42. But the court was most likely explaining that, because Section 3702's limitations period contains its own "another law" exception, 31 U.S.C. 3702(b)(1)(A), the six-year deadline can be supplanted by an alternative limitations period in an ap-

plicable statute, even if that latter statute does not also convey independent settlement authority. That observation is consistent with the text of Sections 3702(a) and 3702(b)(1)(A).

3. Petitioner's remaining arguments do not justify overriding Section 3702's limitations period

To reiterate, petitioner reads Section 1413a to authorize retroactive payment of CRSC for any past month in which a retiree satisfied the underlying criteria for benefits, regardless of when the retiree filed a claim. Petitioner identifies no other Title 10 or 37 provision—and we are aware of none—that confers a similarly broad retroactive entitlement to a form of military pay. Instead, petitioner argues (Br. 43) that "the absence of an explicit statute of limitations" in Section 1413a "makes sense given how the statute operates." But again, none of the features or circumstances that petitioner describes is unique to CRSC.

Petitioner observes (Br. 43) that CRSC is available only during a retired service member's lifetime. But that is true of retired pay as well. And petitioner is mistaken to suggest (*ibid.*) that decades-old CRSC claims are unlikely. Even a longevity retiree might retire as early as age 38, and a chapter 61 retiree may be eligible for retired pay even earlier than that. True, the 2003 and 2008 effective dates of the laws that created and enlarged the CRSC programs will limit the government's exposure to retroactive CRSC liability, since even under petitioner's theory, retrospective benefits cannot be awarded for time periods before a claimant was statutorily eligible. See p. 14, *supra*. But even with those limitations, a CRSC claim filed today could (under petitioner's theory) seek more than two decades of retroac-

tive benefits. And as time goes on, those effective dates will become an even less meaningful backstop.

Petitioner also points out (Br. 43) that the government does not pay interest on past-due CRSC. But that is true of nearly all payments under Titles 10 and 37. See *Sandstrom* v. *Principi*, 358 F.3d 1376, 1379-1380 (Fed. Cir. 2004) (referring to the general "no-interest rule"). Thus, virtually all persons who are entitled to such pay or benefits have "every financial incentive" (Pet. Br. 44) to seek the compensation to which they are entitled as soon as the entitlement accrues. Nevertheless, some do not, and Section 3702(b)(1) limits the government's exposure to retroactive liability in that circumstance. See 1940 Senate Report 2 (citing concern about claims for back pay and allowances dating back "10 to 25 years" or more). The six-year bar also protects the government from claims contending that a long-ago payment was incorrectly calculated or never received.

In addition, petitioner and his amici emphasize that retirees suffering from a disability may face obstacles in applying for CRSC. Pet. Br. 44; *e.g.*, Conn. Veteran Legal Ctr. Br. 13-15. That is a genuine concern, but it is not unique to the CRSC program. In other statutory provisions, Congress has accounted for this problem or other equitable circumstances by granting beneficiaries some leeway, while still limiting the government's exposure to retroactive obligations. See, *e.g.*, 38 U.S.C. 5110(b)(1) (providing that the effective date for an award of disability compensation is the day after the veteran's discharge or release if the veteran applies within a year); 38 U.S.C. 5110(b)(4) (similar one-year grace period for disability pensions); *Arellano* v. *McDonough*, 598 U.S. 1, 8-10 (2023) (observing, with respect to those rules, that "despite its attention to fair-

ness, Congress did not throw the door wide open in these circumstances," but instead "capped retroactive benefits at roughly one year"). Petitioner identifies no counterexample.

The Department's implementation of the CRSC program gives substantial protections to retirees who fail to submit CRSC applications promptly upon becoming eligible. Under the Department's approach, an individual who elects CRSC benefits within six years after he satisfies the eligibility criteria can receive full retroactive payments. See pp. 22-23 & n.5, *supra*. And because the Department treats CRSC claims as separately accruing on a monthly basis, a retiree who applies for CRSC more than six years after he becomes eligible can still receive benefits on a prospective basis, as well as six years' worth of retroactive payments measured from the application date. See *ibid.*; J.A. 36-37, 51. Indeed, such a retiree may receive *more* than six years of retrospective CRSC payments (up to an additional $25,000) if he seeks and receives a waiver of Section 3702(b)(1)'s time bar. See 31 U.S.C. 3702(e); see also 32 C.F.R. Pt. 282, App. D, Subsec. (d) (explaining the process for waivers).

On the other side of the ledger, the practical consequences of petitioner's position are potentially immense. To be sure, this case concerns only claims for past-due CRSC payments, and the Department has estimated that approximately 9100 retirees have had such claims limited by Section 3702(b)(1). See J.A. 71-72 & n.1. And in this Little Tucker Act case, no individual's claim is for more than $10,000. However, as discussed, numerous pay, benefit, and allowance authorities across Title 10 and Title 37 contain the statutory features that petitioner asserts amount to an implicit displacement of

Section 3702's six-year time bar. See pp. 35-40, *supra*. Unless such a provision contains its own statute of limitations or cap on retroactive payments, it too could be interpreted (under petitioner's view of what suffices to supplant Section 3702) to authorize open-ended retroactive liability at any time an eligible beneficiary comes forward or believes there has been a past mistake.[10] That approach could expose the Department of Defense to substantial retrospective liability on a wide array of military-compensation claims dating decades into the past. That highly destabilizing result is all the more reason to reject petitioner's interpretation of Section 1413a.

4. Petitioner's reliance on the pro-veterans canon is misplaced

Finally, petitioner suggests that the court of appeals "should have considered the [pro-]veterans canon." Pet. Br. 38; see *Henderson* v. *Shinseki*, 562 U.S. 428, 441 (2011) (referring to "the canon that provisions for benefits to members of the Armed Services are to be construed in the beneficiaries' favor") (citation omitted). Members of this Court have observed, however, "the canon's seemingly nonexistent impact on this Court's decisions." *Rudisill* v. *McDonough*, 601 U.S. 294, 316 (2024) (Kavanaugh, J., concurring); *id.* at 329 (Thomas, J., dissenting). And the canon cannot carry the day where, as here, text and context clearly point the other way. See *Arellano*, 598 U.S. at 13-14. The interpretive principle rests not on any constitutional foundation, but rather on a presumption regarding con-

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[10] Some of the authorities identified above expire at the end of this year. See 10 U.S.C. 1175a(k); 37 U.S.C. 331(h), 352(g), 910(g). However, Congress has routinely extended them.

gressional intent. See *Rudisill*, 601 U.S. at 316 (Kavanaugh, J., concurring); see also *Chickasaw Nation* v. *United States*, 534 U.S. 84, 94 (2001) ("canons are not mandatory rules," but instead "guides * * * designed to help judges determine the Legislature's intent as embodied in particular statutory language"). Given the countervailing historical practice of settling military personnel claims under Section 3702 and its predecessors—as well as the similarity of the CRSC statute to numerous other military pay and benefit statutes to which the six-year statute of limitations applies—any such presumption is overcome here. See pp. 32-34, 35-40; Pet. App. 8a n.3.

CONCLUSION

The judgment of the court of appeals should be affirmed.

Respectfully submitted.

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APRIL 2025

APPENDIX

TABLE OF CONTENTS

APPENDIX

1. 10 U.S.C. 1413a (2018 & Supp. III 2022) provides:

Combat-related special compensation

(a) AUTHORITY.—The Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

(b) AMOUNT.—

(1) DETERMINATION OF MONTHLY AMOUNT.—Subject to paragraphs (2) and (3), the monthly amount to be paid an eligible combat-related disabled uniformed services retiree under subsection (a) for any month is the amount of compensation to which the retiree is entitled under title 38 for that month, determined without regard to any disability of the retiree that is not a combat-related disability.

(2) MAXIMUM AMOUNT.—The amount paid to an eligible combat-related disabled uniformed services retiree for any month under paragraph (1) may not exceed the amount of the reduction in retired pay that is applicable to the retiree for that month under sections 5304 and 5305 of title 38.

(3) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

(A) GENERAL RULE.—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title, the amount of the payment under paragraph (1) for any month may not, when combined with the amount of retired pay payable to the retiree

after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

(B) SPECIAL RULE FOR RETIREES WITH FEWER THAN 20 YEARS OF SERVICE.—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title with fewer than 20 years of creditable service, the amount of the payment under paragraph (1) for any month may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed the amount equal to the retired pay percentage (determined for the member under section 1409(b) of this title) of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.

(c) ELIGIBLE RETIREES.—For purposes of this section, an eligible combat-related disabled uniformed services retiree referred to in subsection (a) is a member of the uniformed services who—

(1) is entitled to retired pay (other than by reason of section 12731b of this title); and

(2) has a combat-related disability.

(d) PROCEDURES.—The Secretary of Defense shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree. Such procedures shall apply uniformly throughout the Department of Defense.

(e) COMBAT-RELATED DISABILITY.—In this section, the term "combat-related disability" means a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that—

(1) is attributable to an injury for which the member was awarded the Purple Heart; or

(2) was incurred (as determined under criteria prescribed by the Secretary of Defense)—

(A) as a direct result of armed conflict;

(B) while engaged in hazardous service;

(C) in the performance of duty under conditions simulating war; or

(D) through an instrumentality of war.

(f) COORDINATION WITH CONCURRENT RECEIPT PROVISION.—Subsection (d) of section 1414 of this title provides for coordination between benefits under that section and under this section.

(g) STATUS OF PAYMENTS.—Payments under this section are not retired pay.

(h) SOURCE OF PAYMENTS.—Payments under this section for a member of the Army, Navy, Air Force, or Marine Corps, or Space Force shall be paid from the Department of Defense Military Retirement Fund. Pay-

ments under this section for any other member for any fiscal year shall be paid out of funds appropriated for pay and allowances payable by the Secretary concerned for that fiscal year.

(i) OTHER DEFINITIONS.—In this section:

(1) The term "service-connected" has the meaning given such term in section 101 of title 38.

(2) The term "retired pay" includes retainer pay, emergency officers' retirement pay, and naval pension.

2. 10 U.S.C. 1414 provides in pertinent part:

Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation

(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—

(1) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (hereinafter in this section referred to as a "qualified retiree") is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38. During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to such a qualified retiree is subject to subsection (c), except that payment of retired pay is subject to subsection (c) only during the period be-

ginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:

(A) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

(B) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.

(2) QUALIFYING SERVICE-CONNECTED DISABILITY.—In this section, the term "qualifying service-connected disability" means a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs.

(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

(1) CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title, or at least 20 years of service computed under section 12732 of this title, at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 6 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

(2) DISABILITY RETIREES WITH LESS THAN 20 YEARS OF SERVICE.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title, or with less than 20 years of service computed under section 12732 of this title, at the time of the member's retirement.

* * * * *

(d) COORDINATION WITH COMBAT-RELATED SPECIAL COMPENSATION PROGRAM.—

(1) IN GENERAL.—A person who is a qualified retiree under this section and is also an eligible combat-related disabled uniformed services retiree under section 1413a of this title may receive special compensation in accordance with that section or retired pay in accordance with this section, but not both.

(2) ANNUAL OPEN SEASON.—The Secretary concerned shall provide for an annual period (referred to as an "open season") during which a person described in paragraph (1) shall have the right to make an election to change from receipt of special compensation in accordance with section 1413a of this title to receipt of retired pay in accordance with this section, or the reverse, as the case may be. Any such election shall be made under regulations prescribed by the Secretary concerned. Such regulations shall provide for the form and manner for making such an election and shall provide for the date as of when such an election shall become effective. In the case of the Secretary of a military department, such regulations

shall be subject to approval by the Secretary of Defense.

(e) DEFINITIONS.—In this section:

(1) RETIRED PAY.—The term "retired pay" includes retainer pay, emergency officers' retirement pay, and naval pension.

(2) VETERANS' DISABILITY COMPENSATION.—The term "veterans' disability compensation" has the meaning given the term "compensation" in section 101(13) of title 38.

(3) DISABILITY RATED AS TOTAL.—The term "disability rated as total" means—

(A) a disability, or combination of disabilities, that is rated as total under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

(B) a disability, or combination of disabilities, for which the scheduled rating is less than total but for which a rating of total is assigned by reason of inability of the disabled person concerned to secure or follow a substantially gainful occupation as a result of disabilities for which veterans' disability compensation may be paid.

(4) CURRENT BASELINE OFFSET.—

(A) IN GENERAL.—The term "current baseline offset" for any qualified retiree means the amount for any month that is the lesser of—

(i) the amount of the applicable monthly retired pay of the qualified retiree for that month; and

(ii) the amount of monthly veterans' disability compensation to which the qualified retiree is entitled for that month.

(B) APPLICABLE RETIRED PAY.—In subparagraph (A), the term "applicable retired pay" for a qualified retiree means the amount of monthly retired pay to which the qualified retiree is entitled, determined without regard to this section or sections 5304 and 5305 of title 38, except that in the case of such a retiree who was retired under chapter 61 of this title, such amount is the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

3. 10 U.S.C. 1475 (2018 & Supp. III 2022) provides:

Death gratuity: death of members on active duty or inactive duty training and of certain other persons

(a) Except as provided in section 1480 of this title, the Secretary concerned shall have a death gratuity paid to or for the survivor prescribed by section 1477 of this title, immediately upon receiving official notification of the death of—

(1) a member of an armed force under his jurisdiction who dies while on active duty or while performing authorized travel to or from active duty;

(2) a Reserve of an armed force who dies while on inactive duty training (other than work or study in connection with a correspondence course of an armed

force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service);

(3) any Reserve of an armed force who, when authorized or required by an authority designated by the Secretary, assumed an obligation to perform active duty for training, or inactive duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution, under the sponsorship of an armed force or the Public Health Service), and who dies while traveling directly to or from that active duty for training or inactive duty training or while staying at the Reserve's residence, when so authorized by proper authority, during the period of such inactive duty training or between successive days of inactive duty training;

(4) any member of a reserve officers' training corps who dies while performing annual training duty under orders, or while performing authorized travel to or from that annual training duty; or any applicant for membership in a reserve officers' training corps who dies while attending field training or a practice cruise under section 2104(b)(6)(B) of this title or while performing authorized travel to or from the place where the training or cruise is conducted; or a graduate of a reserve officers' training corps who has received a commission but has yet to receive a first duty assignment; or

(5) a person who dies while traveling to or from or while at a place for final acceptance, or for entry upon active duty (other than for training), in an

armed force, who has been ordered or directed to go to that place, and who—

(A) has been provisionally accepted for that duty; or

(B) has been selected, under the Military Selective Service Act (50 U.S.C. 3801 et seq.), for service in that armed force.

(b) This section does not apply to the survivors of persons who were temporary members of the Coast Guard Reserve at the time of their death.

4. 10 U.S.C. 1476 provides:

Death gratuity: death after discharge or release from duty or training

(a)(1) Except as provided in section 1480 of this title, the Secretary concerned shall pay a death gratuity to or for the survivors prescribed in section 1477 of this title of each person who dies within 120 days after discharge or release from—

(A) active duty; or

(B) inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service).

(2) A death gratuity may be paid under paragraph (1) only if the Secretary of Veterans Affairs determines that the death resulted from an injury or disease incurred or aggravated during—

(A) the active duty or inactive-duty training described in paragraph (1); or

(B) travel directly to or from such duty.

(b) For the purpose of this section, the standards and procedures for determining the incurrence or aggravation of a disease or injury are those applicable under the laws relating to disability compensation administered by the Department of Veterans Affairs, except that there is no requirement under this section that any incurrence or aggravation have been in line of duty.

(c) This section does not apply to the survivors of persons who were temporary members of the Coast Guard Reserve at the time of their death.

5. 10 U.S.C. 1477 provides:

Death gratuity: eligible survivors

(a) DESIGNATION OF RECIPIENTS.—(1) On and after July 1, 2008, or such earlier date as the Secretary of Defense may prescribe, a person covered by section 1475 or 1476 of this title may designate one or more persons to receive all or a portion of the amount payable under section 1478 of this title. The designation of a person to receive a portion of the amount shall indicate the percentage of the amount, to be specified only in 10 percent increments, that the designated person may receive. The balance of the amount of the death gratuity, if any, shall be paid in accordance with subsection (b).

(2) If a person covered by section 1475 or 1476 of this title has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable under section 1478 of this title, the Secretary

concerned shall provide notice of the designation to the spouse.

(b) DISTRIBUTION OF REMAINDER; DISTRIBUTION IN ABSENCE OF DESIGNATED RECIPIENT.—If a person covered by section 1475 or 1476 of this title does not make a designation under subsection (a) or designates only a portion of the amount payable under section 1478 of this title, the amount of the death gratuity not covered by a designation shall be paid as follows:

(1) To the surviving spouse of the person, if any.

(2) If there is no surviving spouse, to any surviving children (as prescribed by subsection (d)) of the person and the descendants of any deceased children by representation.

(3) If there is none of the above, to the surviving parents (as prescribed by subsection (c)) of the person or the survivor of them.

(4) If there is none of the above, to the duly-appointed executor or administrator of the estate of the person.

(5) If there is none of the above, to other next of kin of the person entitled under the laws of domicile of the person at the time of the person's death.

(c) TREATMENT OF PARENTS.—For purposes of subsection (b)(3), parents include fathers and mothers through adoption. However, only one father and one mother may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent entered a status described in section 1475 or 1476 of this title.

(d) TREATMENT OF CHILDREN.—Subsection (b)(2) applies, without regard to age or marital status, to—

(1) legitimate children;

(2) adopted children;

(3) stepchildren who were a part of the decedent's household at the time of his death;

(4) illegitimate children of a female decedent; and

(5) illegitimate children of a male decedent—

(A) who have been acknowledged in writing signed by the decedent;

(B) who have been judicially determined, before the decedent's death, to be his children;

(C) who have been otherwise proved, by evidence satisfactory to the Secretary of Veterans Affairs, to be children of the decedent; or

(D) to whose support the decedent had been judicially ordered to contribute.

(e) EFFECT OF DEATH BEFORE RECEIPT OF GRATUITY. — If a person entitled to all or a portion of a death gratuity under subsection (a) or (b) dies before the person receives the death gratuity, it shall be paid to the living survivor next in the order prescribed by subsection (b).

6. 10 U.S.C. 1478 provides:

Death gratuity: amount

(a) The death gratuity payable under sections 1475 through 1477 of this title shall be $100,000. For this purpose:

(1) A person covered by subsection (a)(1) of section 1475 of this title who died while traveling to or from active duty (other than for training) is considered to have been on active duty on the date of his death.

(2) A person covered by subsection (a)(3) of section 1475 of this title who died while traveling directly to or from active duty for training is considered to have been on active duty for training on the date of his death.

(3) A person covered by subsection (a)(3) of section 1475 of this title who died while traveling directly to or from inactive duty training is considered to have been on inactive duty training on the date of his death.

(4) A person covered by subsection (a)(3) of section 1475 of this title who died while on authorized stay at the person's residence during a period of inactive duty training or between successive days of inactive duty training is considered to have been on inactive duty training on the date of his death.

(5) A person covered by subsection (a)(4) of section 1475 of this title who died while performing annual training duty or while traveling directly to or from that duty is considered to have been entitled, on the date of his death, to the pay prescribed by the

first sentence of section 209(c) of title 37. A person covered by section 1475(a)(4) of this title who dies while attending field training or a practice cruise under section 2104(b)(6)(B) of this title, or while traveling directly to or from the place where the training or cruise is conducted, is considered to have been entitled, on the date of his death, to the pay prescribed by the second sentence of section 209(c) of title 37.

(6) A person covered by subsection (a)(5) of section 1475 of this title is considered to have been on active duty, on the date of his death, in the grade that he would have held on final acceptance, or entry on active duty.

(7) A person covered by section 1476 of this title is considered to have been entitled, on the date of his death, to pay at the rate to which he was entitled on the last day on which he performed duty or training.

(8) A person covered by section 1475 or 1476 of this title who performed active duty, or inactive duty training, without pay is considered to have been entitled to basic pay while performing that duty or training.

(9) A person covered by section 1475 or 1476 of this title who incurred a disability while on active duty or inactive duty training and who became entitled to basic pay while receiving hospital or medical care, including out-patient care, for that disability, is considered to have been on active duty or inactive duty training, as the case may be, for as long as he is entitled to that pay.

(b) A person who is discharged, or released from active duty (other than for training), is considered to continue on that duty during the period following the date of his discharge or release that, as determined by the Secretary concerned, is necessary for that person to go to his home by the most direct route. That period may not end before midnight of the day on which the member is discharged or released.

(c) Repealed. Pub. L. 109-163, div. A, title VI, §664(a)(2)(B), Jan. 6, 2006, 119 Stat. 3316.]

(d)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable, subject to section 664(c) of the National Defense Authorization Act for Fiscal Year 2006, for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (a).

(2) This subsection applies in the case of a person who died during the period beginning on October 7, 2001, and ending on August 31, 2005, while a member of the armed forces on active duty and whose death did not establish eligibility for an additional death gratuity under the prior subsection (e) of this section (as added by section 1013(b) of Public Law 109-13; 119 Stat. 247), because the person was not described in paragraph (2) of that prior subsection.

(3) The amount of additional death gratuity payable under this subsection shall be $150,000.

(4) A payment pursuant to this subsection shall be paid in the same manner as provided under paragraph (4) of the prior subsection (e) of this section (as added by section 1013(b) of Public Law 109-13; 119 Stat. 247),

for payments pursuant to paragraph (3)(A) of that prior subsection.

7. 10 U.S.C. 1479 provides:

Death gratuity: delegation of determinations, payments

For the purpose of making immediate payments under section 1475 of this title, the Secretary concerned shall—

(1) authorize the commanding officer of a territorial command, installation, or district in which a survivor of a person covered by that section is residing to determine the beneficiary eligible for the death gratuity; and

(2) authorize a disbursing or certifying official of each of those commands, installations, or districts to make the payments to the beneficiary, or certify the payments due them, as the case may be.

8. 10 U.S.C. 1480 provides:

Death gratuity: miscellaneous provisions

(a) A payment may not be made under sections 1475-1477 of this title if the decedent was put to death as lawful punishment for a crime or a military offense, unless he was put to death by a hostile force with which the armed forces of the United States were engaged in armed conflict.

(b) A payment may not be made under section 1476 unless the Secretary of Veterans Affairs determines that the decedent was discharged or released, as the

case may be, under conditions other than dishonorable from the last period of the duty or training that he performed.

(c) For the purposes of section 1475(a)(3) of this title, the Secretary concerned shall determine whether the decedent was authorized or required to perform the duty or training and whether or not he died from injury so incurred. For the purposes of section 1476 of this title, the Secretary of Veterans Affairs shall make those determinations. In making those determinations, the Secretary concerned or the Secretary of Veterans Affairs, as the case may be, shall consider—

(1) the hour on which the Reserve began to travel directly to or from the duty or training;

(2) the hour at which he was scheduled to arrive for, or at which he ceased performing, that duty or training;

(3) the method of travel used;

(4) the itinerary;

(5) the manner in which the travel was performed; and

(6) the immediate cause of death.

In cases covered by this subsection, the burden of proof is on the claimant.

(d) Payments under sections 1475-1477 of this title shall be made from appropriations available for the payment of members of the armed force concerned.

(e) In the case of a claim for a death gratuity under this chapter by an individual who is younger than 21 years of age on the date of the death with respect to

which the claim is made, the individual shall file the claim with the Secretary of Defense not later than the later of—

(1) the date that is three years after the individual reaches 21 years of age; or

(2) the date that is six years after the date of the death with respect to which the claim is made.

9. 10 U.S.C. 2733 (2018 & Supp. IV 2022) provides:

Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force

(a) Under such regulations as the Secretary concerned may prescribe, he, or, subject to appeal to him, the Judge Advocate General of an armed force under his jurisdiction, or the chief Counsel of the Coast Guard, as appropriate, if designated by him, may settle, and pay in an amount not more than $100,000, a claim against the United States for—

(1) damage to or loss of real property, including damage or loss incident to use and occupancy;

(2) damage to or loss of personal property, including property bailed to the United States and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be; or

(3) personal injury or death;

either caused by a civilian officer or employee of that department, or the Coast Guard, or a member of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be, acting within the scope of his employment, or otherwise incident to noncombat activities of that department, or the Coast Guard.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented in writing within two years after it accrues, except that if the claim accrues in time of war or armed conflict or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after the war or armed conflict is terminated;

(2) it is not covered by section 2734 of this title or section 2672 of title 28;

(3) it is not for personal injury or death of such a member or civilian officer or employee whose injury or death is incident to his service;

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee; or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and

(5) it is substantiated as prescribed in regulations of the Secretary concerned.

For the purposes of clause (1), the dates of the beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(c) Payment may not be made under this section for reimbursement for medical, hospital, or burial services furnished at the expense of the United States.

(d) If the Secretary concerned considers that a claim in excess of $100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant $100,000 and report any meritorious amount in excess of $100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) For the purposes of this section, a member of the National Oceanic and Atmospheric Administration or of the Public Health Service who is serving with the Navy or Marine Corps shall be treated as if he were a member of that armed force.

(g) Under regulations prescribed by the Secretary concerned, an officer or employee under the jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed $25,000. A decision of the officer or employee who makes a final settlement decision under this section may be appealed by the claimant to the Secretary concerned or an officer or employee designated by the Secretary for that purpose.

(h) Under such regulations as the Secretary of Defense may prescribe, he or his designee has the same au-

thority as the Secretary of a military department under this section with respect to the settlement of claims based on damage, loss, personal injury, or death caused by a civilian officer or employee of the Department of Defense acting within the scope of his employment or otherwise incident to noncombat activities of that department.

10. 31 U.S.C. 3702 provides:

Authority to settle claims

(a) Except as provided in this chapter or another law, all claims of or against the United States Government shall be settled as follows:

(1) The Secretary of Defense shall settle—

(A) claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits; and

(B) claims by transportation carriers involving amounts collected from them for loss or damage incurred to property incident to shipment at Government expense.

(2) The Director of the Office of Personnel Management shall settle claims involving Federal civilian employees' compensation and leave.

(3) The Administrator of General Services shall settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.

(4) The Director of the Office of Management and Budget shall settle claims not otherwise provided for by this subsection or another provision of law.

(b)(1) A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues except—

(A) as provided in this chapter or another law; or

(B) a claim of a State, the District of Columbia, or a territory or possession of the United States.

(2) When the claim of a member of the armed forces accrues during war or within 5 years before war begins, the claim must be received within 5 years after peace is established or within the period provided in paragraph (1) of this subsection, whichever is later.

(3) A claim that is not received in the time required under this subsection shall be returned with a copy of this subsection, and no further communication is required.

(c) ONE-YEAR LIMIT FOR CHECK CLAIMS.—(1) Any claim on account of a Treasury check shall be barred unless it is presented to the agency that authorized the issuance of such check within 1 year after the date of issuance of the check or the effective date of this subsection, whichever is later.

(2) Nothing in this subsection affects the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(d) The official responsible under subsection (a) for settling the claim shall report to Congress on a claim against the Government that is timely presented under this section that may not be adjusted by using an existing appropriation, and that the official believes Congress should consider for legal or equitable reasons. The report shall include recommendations of the official.

(e)(1) The Secretary of Defense may waive the time limitations set forth in subsection (b) or (c) in the case of a claim referred to in subsection (a)(1)(A). In the case of a claim by or with respect to a member of the uniformed services who is not under the jurisdiction of the Secretary of a military department, such a waiver may be made only upon the request of the Secretary concerned (as defined in section 101 of title 37).

(2) Payment of a claim settled under subsection (a)(1)(A) shall be made from an appropriation that is available, for the fiscal year in which the payment is made, for the same purpose as the appropriation to which the obligation claimed would have been charged if the obligation had been timely paid, except that in the case of a claim for retired pay or survivor benefits, if the obligation claimed would have been paid from a trust fund if timely paid, the payment of the claim shall be made from that trust fund.

(3) This subsection does not apply to a claim in excess of $25,000.