

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-51 effective Oct. 13, 1964, see section 4 of Pub. L. 89-51, set out as a note under section 2109 of Title 10, Armed Forces.

SUBSISTENCE ALLOWANCES FOR MEMBERS OF THE MARINE CORPS OFFICER CANDIDATE PROGRAMS

Pub. L. 92-172, Nov. 24, 1971, 85 Stat. 491, as amended by Pub. L. 94-361, title VI, § 604, July 14, 1976, 90 Stat. 929; Pub. L. 95-79, title VIII, § 806, July 30, 1977, 91 Stat. 334; Pub. L. 95-485, title VIII, § 803, Oct. 20, 1978, 92 Stat. 1620, which provided that until Sept. 30, 1980, except when on active duty, a member enrolled in a Marine Corps officer candidate program which required a baccalaureate degree as a prerequisite to being commissioned as a regular or reserve officer, and who was not enrolled in a program or an academy established under chapter 103, 403, 603, or 903 of Title 10, Armed Forces, could be paid a subsistence allowance at the same rate as that prescribed by subsec. (a) of this section, was repealed by Pub. L. 96-342, title VIII, § 811(b), Sept. 8, 1980, 94 Stat. 1098. See subsec. (d) of this section.

§ 210. Pay of senior enlisted members during terminal leave and while hospitalized

(a) A noncommissioned officer of an armed force who, immediately following the completion of service as the senior enlisted member of that armed force, is placed on terminal leave pending retirement shall be entitled, for not more than 60 days while in such status, to the rate of basic pay authorized for the senior enlisted member of that armed force.

(b) A noncommissioned officer of an armed force who is hospitalized and who, during or immediately before such hospitalization, completed service as the senior enlisted member of that armed force, shall continue to be entitled, for not more than 180 days while so hospitalized, to the rate of basic pay authorized for the senior enlisted member of that armed force.

(c) In this section, the term "senior enlisted member" means the following:

- (1) The Sergeant Major of the Army.
- (2) The Master Chief Petty Officer of the Navy.
- (3) The Chief Master Sergeant of the Air Force.
- (4) The Sergeant Major of the Marine Corps.
- (5) The Master Chief Petty Officer of the Coast Guard.
- (6) The Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff.

(Added Pub. L. 102-190, div. A, title VI, § 606(a), Dec. 5, 1991, 105 Stat. 1374; amended Pub. L. 104-201, div. A, title VI, § 603(a), (b)(1), Sept. 23, 1996, 110 Stat. 2540; Pub. L. 109-163, div. A, title VI, § 685(b), Jan. 6, 2006, 119 Stat. 3325; Pub. L. 109-364, div. A, title X, § 1071(c)(1), Oct. 17, 2006, 120 Stat. 2400.)

AMENDMENTS

2006—Subsec. (c)(6). Pub. L. 109-364 substituted "Advisor to" for "Advisor for".

Pub. L. 109-163 added par. (6).

1996—Pub. L. 104-201, § 603(b)(1), substituted "Pay of senior enlisted members during terminal leave and while hospitalized" for "Pay of the senior noncommissioned officer of an armed force during terminal leave" in section catchline.

Subsecs. (b), (c). Pub. L. 104-201, § 603(a), added subsec. (b) and redesignated former subsec. (b) as (c).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 211. Participation in Thrift Savings Plan

(a) DEFINITION.—In this section, the term "member" means—

- (1) a member of the uniformed services serving on active duty; and
- (2) a member of the Ready Reserve in any pay status.

(b) AUTHORITY.—Any member may participate in the Thrift Savings Plan in accordance with section 8440e of title 5.

(c) RULE OF CONSTRUCTION REGARDING SEPARATION.—For purposes of subchapters III and VII of chapter 84 of title 5, each of the following actions shall, in the case of a member participating in the Thrift Savings Plan in accordance with section 8440e of such title, be considered a separation from Government employment:

- (1) Release of the member from active duty, not followed, before the end of the 31-day period beginning on the day following the effective date of the release, by—

- (A) a resumption of active duty; or
- (B) an appointment to a position covered by chapter 83 or 84 of title 5 or an equivalent retirement system, as identified by the Executive Director (appointed by the Federal Retirement Thrift Investment Board) in regulations.

- (2) Transfer of the member to inactive status, or to a retired list pursuant to any provision of title 10.

(d) AGENCY CONTRIBUTIONS FOR RETENTION IN CRITICAL SPECIALTIES AND FIRST-TIME ENLISTEES.—(1) The Secretary concerned may enter into an agreement with a member to make contributions to the Thrift Savings Fund for the benefit of the member if the member—

- (A)(i) is in a specialty designated by the Secretary as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and

- (ii) commits in such agreement to continue to serve on active duty in that specialty for a period of 6 years; or

- (B) is enlisting in the armed forces for the first time and the period of the member's enlistment is not less than two years.

(2) Under any agreement entered into with a member under paragraph (1)(A), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the 6-year period of the agreement for which the member makes a contribution to the Fund under section 8440e of title 5 (other than under subsection (d)(2) thereof).

(3) In the case of a member described by paragraph (1)(B), the Secretary shall make contribu-

tions to the Fund for the benefit of the member for each pay period of the enlistment of the member described in that paragraph for which the member makes a contribution to the Fund under section 8440e of title 5 (other than under subsection (d)(2) thereof).

(4) Paragraph (2) of section 8432(c) of title 5 applies to the Secretary's obligation to make contributions under this subsection, except that the reference in such paragraph (2) to contributions under paragraph (1) of such section 8432(c) does not apply.

(e) REPAYMENT OF AMOUNTS BORROWED FROM MEMBER ACCOUNT.—If a loan is issued to a member under section 8433(g) of title 5 from funds in the member's account in the Thrift Savings Plan, repayment of the loan may be required on the same semi-monthly basis as authorized for contributions to the Thrift Savings Fund on behalf of the member under section 1014(c) of this title.

(Added and amended Pub. L. 106-65, div. A, title VI, §§ 661(a)(1)(A), 662, Oct. 5, 1999, 113 Stat. 670, 672; Pub. L. 109-163, div. A, title VI, § 605, Jan. 6, 2006, 119 Stat. 3287; Pub. L. 110-181, div. A, title VI, § 605(b), Jan. 28, 2008, 122 Stat. 146.)

AMENDMENTS

2008—Subsec. (e). Pub. L. 110-181 added subsec. (e).
2006—Subsec. (d). Pub. L. 109-163, § 605(b), inserted “and First-Time Enlistees” after “Specialties” in heading.

Subsec. (d)(1). Pub. L. 109-163, § 605(a)(1), designated existing provisions of subpar. (A) as cl. (i), redesignated former subpar. (B) as cl. (ii) of subpar. (A) and substituted “; or” for period at end, and added a new subpar. (B).

Subsec. (d)(2) to (4). Pub. L. 109-163, § 605(a)(2)–(4), substituted “member under paragraph (1)(A)” for “member under paragraph (1)” in first sentence of par. (2), added par. (3), designated second sentence of par. (2) as (4), and in par. (4) substituted “this subsection” for “this paragraph”.

1999—Subsec. (d). Pub. L. 106-65, § 662, added subsec. (d).

EFFECTIVE DATE

Section and amendment by Pub. L. 106-65 effective 180 days after Oct. 30, 2000, unless postponed, see section 663 of Pub. L. 106-65, as amended, set out as a note under section 8440e of Title 5, Government Organization and Employees.

PILOT PROGRAM ON CONTRIBUTIONS TO THRIFT SAVINGS PLAN FOR INITIAL ENLISTEES IN THE ARMY

Pub. L. 109-163, div. A, title VI, § 606, Jan. 6, 2006, 119 Stat. 3287, as amended by Pub. L. 109-364, div. A, title VI, § 608, title X, § 1071(e)(3), Oct. 17, 2006, 120 Stat. 2247, 2401, provided that:

“(a) PILOT PROGRAM REQUIRED.—During the period beginning on January 6, 2006, and ending on December 31, 2008, the Secretary of the Army shall use the authority provided by section 211(d)(1)(B) of title 37, United States Code, as amended by section 605, to carry out within the Army a pilot program in order to assess the extent to which contributions by the Secretary to the Thrift Savings Fund on behalf of members of the Army described in subsection (b) would—

“(1) assist the Army in recruiting efforts; and

“(2) assist such members in establishing habits of financial responsibility during their initial enlistment in the Armed Forces.

“(b) COVERED MEMBERS.—To be eligible to participate in the pilot program under subsection (a), a member of

the Army must be serving under an initial enlistment for a period of not less than two years.

“(c) CONTRIBUTIONS TO THRIFT SAVINGS FUND.—

“(1) IN GENERAL.—The Secretary of the Army may make contributions to the Thrift Savings Fund on behalf of any participant in the pilot program under subsection (a) for any pay period during the period of the pilot program.

“(2) LIMITATIONS.—The amount of any contributions made with respect to a member under paragraph (1) shall be subject to the provisions of section 8432(c) of title 5, United States Code.

“(d) REPORT.—

“(1) IN GENERAL.—Not later than February 1, 2008, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program under subsection (a).

“(2) ELEMENTS.—The report shall include the following:

“(A) A description of the pilot program, including the number of members of the Army who participated in the pilot program and the contributions made by the Army to the Thrift Savings Fund on behalf of such members during the period of the pilot program.

“(B) An assessment, based on the pilot program and taking into account the views of officers and senior enlisted personnel of the Army, and of field recruiters, of the extent to which contributions by the military departments to the Thrift Savings Fund on behalf of members of the Armed Forces similar to the participants in the pilot program—

“(i) would enhance the recruiting efforts of the Armed Forces; and

“(ii) would assist such members in establishing habits of financial responsibility during their initial enlistment in the Armed Forces.”

§ 212. Advancement of basic pay: members deployed in combat zone for more than one year

(a) ELIGIBILITY; AMOUNT ADVANCED.—If a member of the armed forces is assigned to duty in an area for which special pay under section 310 of this title is available and the assignment is pursuant to orders specifying an assignment of one year or more (or the assignment is extended beyond one year), the member may request, during the period of the assignment, the advanced payment of not more than three months of the basic pay of the member.

(b) CONSIDERATION OF REQUEST.—A request by a member described in subsection (a) for the advanced payment of a single month of basic pay shall be granted. The Secretary concerned may grant a member's request for a second or third month of advanced basic pay during the assignment upon a showing of financial hardship.

(c) RECOUPMENT OF ADVANCED PAY.—The Secretary concerned shall recoup an advance made on the basic pay of a member under this section in equal installments over a one-year period beginning as provided in subsection (d). If the member is serving on active duty for any month during the recoupment period, the amount of the installment for the month shall be deducted from the basic pay of the member for that month. The estate of a deceased member shall not be required to repay any portion of the advanced pay paid to the member and not repaid before the death of the member.

(d) COMMENCEMENT OF RECOUPMENT.—The recoupment period for an advancement of basic