

Subsec. (i)(3). Pub. L. 101-510, §1533(b)(3), substituted “Armed Forces Retirement Home Board” for “Governor of the Naval Home and the board of commissioners for the United States Soldiers’ and Airmen’s Home” and “of the Armed Forces Retirement Home” for “of the homes”.

Pub. L. 101-510, §1533(b)(1), which directed amendment of par. (3) by substituting “, warrant officer, and limited duty officer” for “and warrant officer”, could not be executed because the words “and warrant officer” did not appear.

Subsec. (i)(5). Pub. L. 101-510, §1533(b)(4), substituted “, warrant officer, or limited duty officer” for “or warrant officer”.

1989—Subsec. (i). Pub. L. 101-189 added subsec. (i).

1987—Subsec. (h). Pub. L. 100-180 added subsec. (h).

1985—Subsec. (c). Pub. L. 99-145 substituted “uniformed services” for “armed forces”.

1984—Subsec. (c). Pub. L. 98-525 substituted “a member of the armed forces” for “an enlisted member of the Army or the Air Force”.

1967—Subsec. (b). Pub. L. 90-83 struck out requirement that, in case of a member of the Army, the report be made to Chief of Finance.

1966—Subsec. (a). Pub. L. 89-718, §71, substituted “section 5512 of title 5” for “section 82 of title 5”.

Subsec. (c). Pub. L. 89-718, §72, substituted “pay” for “basic pay” as the amount which cannot be reduced below one-third through deductions from enlisted men of the Army or Air Force who have been administratively determined to owe the United States, payable by deductions in monthly installments.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title VI, §661(d), Oct. 28, 2009, 123 Stat. 2370, provided that: “The amendments made by this section [amending this section] shall apply only with respect to an overpayment of pay or allowances made to a member of the uniformed services after the date of the enactment of this Act [Oct. 28, 2009].”

#### EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107-314 applicable with respect to loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of United States under control of Department of Defense occurring on or after effective date of regulations prescribed pursuant to section 2787 of Title 10, Armed Forces, see section 1006(d) of Pub. L. 107-314, set out as an Effective Date note under section 2787 of Title 10.

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title III, §371(d)(1), Oct. 5, 1994, 108 Stat. 2735, provided that: “(1) The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1995, and apply to years that begin on or after that date.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101-510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title III, §343(b), Nov. 29, 1989, 103 Stat. 1421, provided that:

“(1) Except as provided in paragraph (2), subsection (i) of section 1007 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Nov. 29, 1989].

“(2) With respect to deductions from the pay of an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy), such subsection shall take effect on October 1, 1990.”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. A, title VI, §633(b), Dec. 4, 1987, 101 Stat. 1106, provided that: “Subsection (h) of section 1007 of title 37, United States Code (as added by subsection (a)), shall apply with respect to debts incurred by members of the uniformed services after the date of the enactment of this Act [Dec. 4, 1987].”

#### 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, set out as a note under section 542 of Title 6.

### § 1008. Presidential recommendations concerning adjustments and changes in pay and allowances

(a) The President shall direct an annual review of the adequacy of the pays and allowances authorized by this title for members of the uniformed services.

(b) Whenever the President considers it appropriate, but in no event later than January 1, 1967, and not less than once each four years thereafter, he shall direct a complete review of the principles and concepts of the compensation system for members of the uniformed services. Upon completion of such review he shall submit a detailed report to Congress summarizing the results of such review together with any recommendations he may have proposing changes in the statutory salary system and other elements of the compensation structure provided members of the uniformed services.

(Added Pub. L. 89-132, §2(a), Aug. 21, 1965, 79 Stat. 546; amended Pub. L. 104-106, div. A, title VI, §642(b), Feb. 10, 1996, 110 Stat. 368.)

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106 struck out at end “Upon completion of this review, but not later than March 31 of each year, the President shall submit to Congress a detailed report summarizing the results of such annual review together with any recommendations for adjustments in the rates of pay and allowances authorized by this title.”

#### EFFECTIVE DATE

Section effective Sept. 1, 1965, see section 10 of Pub. L. 89-132, set out as an Effective Date of 1965 Amendment note under section 203 of this title.

#### DELEGATION OF REPORTING FUNCTION

Memorandum of the President of the United States, June 9, 1989, 54 F.R. 25561, provided:

Memorandum for the Secretary of Defense

By virtue of the authority vested in me by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I authorize you to submit to the Congress the report summarizing the results of the review of the principles and concepts of the compensation system for members of the uni-

formed services, as required by P.L. 89-132, Sec. 2(a), August 21, 1965 (37 U.S.C. 1008(b)).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

### § 1009. Adjustments of monthly basic pay

(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Effective on January 1 of each year, the rates of basic pay for members of the uniformed services under section 203(a) of this title shall be increased under this section.

(b) EFFECTIVENESS OF ADJUSTMENT.—An adjustment under this section shall have the force and effect of law.

(c) EQUAL PERCENTAGE INCREASE FOR ALL MEMBERS.—(1) An adjustment made under this section in a year shall provide all eligible members with an increase in the monthly basic pay that is the percentage (rounded to the nearest one-tenth of one percent) by which the ECI for the base quarter of the year before the preceding year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

(2) Notwithstanding paragraph (1), but subject to subsection (d), the percentage of the adjustment taking effect under this section during each of fiscal years 2004, 2005, and 2006, shall be one-half of one percentage point higher than the percentage that would otherwise be applicable under such paragraph.

(3) In this subsection:

(A) The term “ECI” means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics.

(B) The term “base quarter” for any year is the three-month period ending on September 30 of such year.

(d) PROTECTION OF MEMBER’S TOTAL COMPENSATION WHILE PERFORMING CERTAIN DUTY.—(1) The total daily equivalent amount of the elements of compensation described in paragraph (3), together with other pay and allowances under this title, to be paid to a member of the uniformed services who is temporarily assigned to duty away from the member’s permanent duty station or to duty under field conditions at the member’s permanent duty station shall not be less, for any day during the assignment period, than the total amount, for the day immediately preceding the date of the assignment, of the elements of compensation and other pay and allowances of the member.

(2) Paragraph (1) shall not apply with respect to an element of compensation or other pay or allowance of a member during an assignment described in such paragraph to the extent that the element of compensation or other pay or allowance is reduced or terminated due to circumstances unrelated to the assignment.

(3) The elements of compensation referred to in this subsection mean—

(A) the monthly basic pay authorized members of the uniformed services by section 203(a) of this title;

(B) the basic allowance for subsistence authorized members of the uniformed services by section 402 of this title; and

(C) the basic allowance for housing authorized members of the uniformed services by section 403 of this title.

(e) PRESIDENTIAL DETERMINATION OF NEED FOR ALTERNATIVE PAY ADJUSTMENT.—(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President considers the pay adjustment which would otherwise be required by this section in any year to be inappropriate, the President shall prepare and transmit to Congress before September 1 of the preceding year a plan for such alternative pay adjustments as the President considers appropriate, together with the reasons therefor.

(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including the Indexes of Leading Economic Indicators, the Gross Domestic Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

(3) The President shall include in the plan submitted to Congress under paragraph (1) an assessment of the impact that the alternative pay adjustments proposed in the plan would have on the Government’s ability to recruit and retain well-qualified persons for the uniformed services.

(Added Pub. L. 93-419, §4, Sept. 19, 1974, 88 Stat. 1152; amended Pub. L. 94-361, title III, §303, July 14, 1976, 90 Stat. 925; Pub. L. 96-342, title VIII, §803, Sept. 8, 1980, 94 Stat. 1091; Pub. L. 96-513, title V, §516(24), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title VI, §642(c), Feb. 10, 1996, 110 Stat. 368; Pub. L. 105-85, div. A, title VI, §§604(a)(1), 605, Nov. 18, 1997, 111 Stat. 1783, 1784; Pub. L. 106-65, div. A, title VI, §602(a), Oct. 5, 1999, 113 Stat. 649; Pub. L. 108-136, div. A, title VI, §602, Nov. 24, 2003, 117 Stat. 1498.)

#### AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, §602(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Whenever the General Schedule of compensation for Federal classified employees, as contained in section 5332 of title 5, is adjusted upward as provided in section 5303 of such title, the President shall immediately make an upward adjustment in the monthly basic pay authorized members of the uniformed services by section 203(a) of this title.”

Subsec. (b). Pub. L. 108-136, §602(b), substituted “shall have the force and effect of law.” for “shall—

“(1) have the force and effect of law; and

“(2) carry the same effective date as that applying to the compensation adjustments provided General Schedule employees.”

Subsec. (c). Pub. L. 108-136, §602(c)(1), (3), added subsec. (c) and struck out former subsec. (c) which related to equal percentage increase for all members.

Subsec. (d). Pub. L. 108-136, §602(c)(1), (2), redesignated subsec. (f) as (d) and struck out former subsec. (d) which related to allocation of increase among pay grades and years-of-service.

Subsec. (e). Pub. L. 108-136, §602(c)(1), (4), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: “Whenever the President plans to exercise the authority of the President under