

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

subsection (d) with respect to any anticipated increase in the monthly basic pay of members of the uniformed services, the President shall advise Congress, at the earliest practicable time prior to the effective date of such increase, regarding the proposed allocation of such increase.”

Subsec. (f). Pub. L. 108-136, §602(c)(2), redesignated subsec. (f) as (d).

Subsec. (g). Pub. L. 108-136, §602(c)(1), struck out heading and text of subsec. (g). Text read as follows: “The allocations of increases made under this section shall be assessed in conjunction with the quadrennial review of military compensation required by section 1008(b) of this title.”

1999—Subsec. (c). Pub. L. 106-65 designated existing provisions as par. (1) and added par. (2).

1997—Pub. L. 105-85, §604(a)(1), amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to adjustments of compensation for members of the uniformed services.

Subsecs. (f), (g). Pub. L. 105-85, §605, added subsec. (f) and redesignated former subsec. (f) as (g).

1996—Subsec. (f). Pub. L. 104-106 struck out “, and a full report shall be made to the Congress summarizing the objectives and results of those allocations” after “of this title”.

1991—Subsecs. (b)(3), (c) to (e). Pub. L. 102-25 struck out “of this section” and “of this subsection” wherever appearing.

1980—Subsec. (a). Pub. L. 96-513, §516(24)(A), struck out “, United States Code,” after “5”.

Subsec. (b)(2). Pub. L. 96-513, §516(24)(B), struck out reference to section 8 of the Act of Dec. 16, 1967 (Pub. L. 90-207).

Subsec. (b)(3). Pub. L. 96-513, §803(1), substituted “subsections (c) and (d) of this section” for “subsection (c)”.

Subsec. (c). Pub. L. 96-342, §803(2), (3), redesignated existing provision as par. (1), inserted “of this section” after “subsection (b)(3)” in two places and after “subsection (a)”, substituted “75 percent” for “75 per centum”, redesignated subsec. (d) as par. (2), substituted “under paragraph (1) of this subsection” for “under subsection (c)” in two places, inserted “of this section” after “subsection (a)”, “subsection (c)”, and “subsection (b)(3)”, respectively, and “of this title” after “section 403(b) or (c)” in two places.

Subsec. (d). Pub. L. 96-342, §803(3), (4), added subsec. (d) and redesignated former subsec. (d) as (c)(2).

Subsec. (e). Pub. L. 96-342, §803(5), inserted “or (d) of this section” after “subsection (c)” and struck out “among the different elements of compensation” after “allocation of such increase”.

Subsec. (f). Pub. L. 96-342, §803(6), struck out “among the three elements of compensation” after “under this section” and inserted “of this title” after “section 1008(b)”.

1976—Subsec. (b)(3). Pub. L. 94-361, §303(a), inserted introductory phrase “subject to subsection (c),”.

Subsecs. (c) to (f). Pub. L. 94-361, §303(b), added subsecs. (c) to (f).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title VI, §602(b), Oct. 5, 1999, 113 Stat. 649, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2000.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-85, div. A, title VI, §604(b), Nov. 18, 1997, 111 Stat. 1784, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1998.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 93-419, §9, Sept. 19, 1974, 88 Stat. 1153, provided that: “This Act [enacting this section, amending sections 101, 203, 402, and 403 of this title, and enacting provisions set out as notes under this section] is effective upon enactment [Sept. 19, 1974].”

INCREASE IN BASIC PAY FOR FISCAL YEAR 2013

Pub. L. 112-239, div. A, title VI, §601, Jan. 2, 2013, 126 Stat. 1773, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2013 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

“(b) INCREASE IN BASIC PAY.—Effective on January 1, 2013, the rates of monthly basic pay for members of the uniformed services are increased by 1.7 percent.”

Provisions relating to adjustment of compensation for members of the uniformed services for prior fiscal years were contained in the following acts:

2010—Pub. L. 111-84, div. A, title VI, §601, Oct. 28, 2009, 123 Stat. 2347.

2009—Pub. L. 110-417, [div. A], title VI, §601, Oct. 14, 2008, 122 Stat. 4482.

2008—Pub. L. 110-181, div. A, title VI, §601, Jan. 28, 2008, 122 Stat. 145.

2007—Pub. L. 109-364, div. A, title VI, §601, Oct. 17, 2006, 120 Stat. 2240.

2006—Pub. L. 109-163, div. A, title VI, §601, Jan. 6, 2006, 119 Stat. 3286.

2005—Pub. L. 108-375, div. A, title VI, §601, Oct. 28, 2004, 118 Stat. 1943.

2004—Pub. L. 108-136, div. A, title VI, §601, Nov. 24, 2003, 117 Stat. 1495, as amended by Pub. L. 109-148, div. A, title VIII, §8124(a)(1), Dec. 30, 2005, 119 Stat. 2727.

2003—Pub. L. 107-314, div. A, title VI, §601, Dec. 2, 2002, 116 Stat. 2563.

2002—Pub. L. 107-107, div. A, title VI, §601, Dec. 28, 2001, 115 Stat. 1129.

2001—Pub. L. 106-398, §1 [[div. A], title VI, §§601, 602], Oct. 30, 2000, 114 Stat. 1654, 1654A-143.

2000—Pub. L. 106-65, div. A, title VI, §601(a)-(c), Oct. 5, 1999, 113 Stat. 645, as amended by Pub. L. 106-398, §1 [[div. A], title X, §1087(c)(1)(C)], Oct. 30, 2000, 114 Stat. 1654, 1654A-292.

1999—Pub. L. 105-261, div. A, title VI, §601, Oct. 17, 1998, 112 Stat. 2036.

1998—Pub. L. 105-85, div. A, title VI, §601, Nov. 18, 1997, 111 Stat. 1771.

1997—Pub. L. 104-201, div. A, title VI, §601, Sept. 23, 1996, 110 Stat. 2539.

1996—Pub. L. 104-106, div. A, title VI, §601, Feb. 10, 1996, 110 Stat. 356.

1995—Pub. L. 103-337, div. A, title VI, §601(a), (b), Oct. 5, 1994, 108 Stat. 2779.

1994—Pub. L. 103-160, div. A, title VI, §601, Nov. 30, 1993, 107 Stat. 1677.

1993—Pub. L. 102-484, div. A, title VI, §601, Oct. 23, 1992, 106 Stat. 2420.

Pub. L. 102-484, div. D, title XLIV, §4402, Oct. 23, 1992, 106 Stat. 2701, as amended by Pub. L. 103-160, div. A, title VI, §602(a), (b)(1), Nov. 30, 1993, 107 Stat. 1678.

1992—Pub. L. 102-190, div. A, title VI, §601, Dec. 5, 1991, 105 Stat. 1372.

Pub. L. 102-190, div. A, title XI, §1111(c), Dec. 5, 1991, 105 Stat. 1491.

1991—Pub. L. 101-510, div. A, title VI, §601, Nov. 5, 1990, 104 Stat. 1575.

1990—Pub. L. 101-189, div. A, title VI, §601(a), (b), Nov. 29, 1989, 103 Stat. 1444.

1989—Pub. L. 100-456, div. A, title VI, §601(a), (b), Sept. 29, 1988, 102 Stat. 1976.

1988—Pub. L. 100-180, div. A, title VI, §601(a), (b), Dec. 4, 1987, 101 Stat. 1092, as amended by Pub. L. 100-202, §110(b), Dec. 22, 1987, 101 Stat. 1329-436.

1987—Pub. L. 99-661, div. A, title VI, §601(a), (b), title XIII, §1310(c), Nov. 14, 1986, 100 Stat. 3873, 3983.

Pub. L. 99-500, §144(b), Oct. 18, 1986, 100 Stat. 1783-350, and Pub. L. 99-591, §144(b), Oct. 30, 1986, 100 Stat. 3341-353.

1986—Pub. L. 99-145, title VI, §601, Nov. 8, 1985, 99 Stat. 635.

1985—Pub. L. 98-525, title VI, §601, Oct. 19, 1984, 98 Stat. 2533.

1984—Pub. L. 98-94, title IX, §901, Sept. 24, 1983, 97 Stat. 634.

1982—Pub. L. 97-60, title I, §101, Oct. 14, 1981, 95 Stat. 989, as amended by Pub. L. 98-557, §35(a), (c), Oct. 30, 1984, 98 Stat. 2877, eff. Oct. 1, 1984; Pub. L. 100-180, div. A, title XIII, §1314(d)(3), (e)(2), Dec. 4, 1987, 101 Stat. 1176, eff. Oct. 1, 1986.

1981—Pub. L. 96-342, title VIII, §801, Sept. 8, 1980, 94 Stat. 1090.

1976—

Pub. L. 94-106, title VIII, §819, Oct. 7, 1975, 89 Stat. 544.

1975—Pub. L. 93-419, §§5-7, Sept. 19, 1974, 88 Stat. 1153.

ADJUSTMENT OF PAY RATES

For adjustment of pay rates under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 11812

Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307, which provided for the adjustment of pay rates effective Oct. 1, 1974, was superseded by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

EXECUTIVE ORDER NO. 11998

Ex. Ord. No. 11998, June 27, 1977, 42 F.R. 33021, which related to the President's Commission on Military Compensation, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under section 14 of the Appendix to Title 5.

§ 1010. Commissioned officers: promotions; effective date for pay and allowances

An officer of a uniformed service who is promoted to a grade above second lieutenant or ensign is entitled to the pay and allowances of the grade to which promoted on the effective date of the promotion.

(Added Pub. L. 96-513, title IV, §403(c), Dec. 12, 1980, 94 Stat. 2905; amended Pub. L. 109-364, div. A, title X, §1071(c)(8), Oct. 17, 2006, 120 Stat. 2401.)

AMENDMENTS

2006—Pub. L. 109-364 substituted “promotions” for “promotion” in section catchline.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

§ 1011. Mess operation: reimbursement of expenses

(a) The Secretary of Defense shall, by regulation, establish rates for meals sold at messes to officers, civilians, and enlisted members. Such rates shall be established at a level sufficient to provide reimbursement of operating expenses and food costs to the appropriations concerned, but members of the uniformed services and civilians in a travel status receiving a per diem al-

lowance in lieu of subsistence shall be charged at a rate of not less than \$2.50 per day. Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.

(b) For the purposes of this section, payment for meals at the rates established under this section may be made in cash or, in the case of enlisted members or civilian employees, by deduction from pay. Members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation or when residing at a military installation pursuant to an agreement in effect on June 30, 1986, and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

(c) Spouses and dependent children of enlisted members in pay grades E-1, E-2, E-3, and E-4 may not be charged for meals sold at messes in excess of a level sufficient to cover food costs.

(d) When the Coast Guard is not operating as a service in the Navy, the Secretary of Homeland Security shall establish rates for meals sold at Coast Guard dining facilities, provide for reimbursement of operating expenses and food costs to the appropriations concerned, and reduce the rates for such meals when the Secretary determines that it is in the best interest of the United States to do so.

(Added Pub. L. 96-513, title IV, §413, Dec. 12, 1980, 94 Stat. 2906; amended Pub. L. 99-145, title VIII, §810(a), Nov. 8, 1985, 99 Stat. 681; Pub. L. 99-661, div. A, title VI, §655, Nov. 14, 1986, 100 Stat. 3891; Pub. L. 101-189, div. A, title III, §321, Nov. 29, 1989, 103 Stat. 1413; Pub. L. 104-324, title II, §214(a), Oct. 19, 1996, 110 Stat. 3915; Pub. L. 107-296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1996—Subsec. (d). Pub. L. 104-324 added subsec. (d).

1989—Subsec. (a). Pub. L. 101-189 substituted “and enlisted members” for “or enlisted members entitled to a per diem transportation allowance determined under section 404(d)(2) of this title” and inserted at end “Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.”

1986—Subsec. (b). Pub. L. 99-661 inserted “or when residing at a military installation pursuant to an agreement in effect on June 30, 1986,” in second sentence.

1985—Subsec. (c). Pub. L. 99-145 added subsec. (c).

EFFECTIVE DATE OF 2002 AMENDMENT

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 1985 AMENDMENT

Amendment by Pub. L. 99-145 effective Oct. 1, 1985, see section 813 of Pub. L. 99-145, formerly set out in a