Sec.
3032. Limitations on educational assistance for certain individuals.
3033. Bar to duplication of educational assistance benefits.
3034. Program administration.
3035. Allocation of administration and of program costs.
3036. Reporting requirement.

AMENDMENTS

2010—Pub. L. 111–275, title X, § 1001(f), Oct. 13, 2010, 124 Stat. 2896, added item 3020 and struck out former item 3020 ''Authority to transfer unused education benefits to family members of career service members''.

2008—Pub. L. 110–252, title V, § 5006(e)(1), June 30, 2008, 122 Stat. 2386, added item 3020 and struck out former item 3020 ''Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills''.

2002—Pub. L. 107–330, title III, § 308(b)(2)(B), Dec. 6, 2002, 116 Stat. 2827, amended item 3014A generally, substituting ''in high technology occupation in high technology industry'' for ''in high technology industry''.

2001—Pub. L. 107–107, div. A, title VI, § 654(a)(2), Dec. 28, 2001, 115 Stat. 1156, added item 3020.

Pub. L. 107–103, title I, § 104(a)(2), Dec. 27, 2001, 115 Stat. 981, added item 3014A.

1996—Pub. L. 104–275, title I, § 106(b)(1), Oct. 9, 1996, 110 Stat. 3329, added item 3018C.

1992—Pub. L. 102–484, div. D, title XLIV, § 4404(b)(1), Oct. 23, 1992, 106 Stat. 2706, added item 3018B.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1401 to 1436 as 3001 to 3036, respectively.

Pub. L. 102–54, § 14(c)(2), June 13, 1991, 105 Stat. 285, substituted ''subchapter'' for ''chapter'' in item 1423.

1990—Pub. L. 101–510, div. A, title V, § 561(a)(2), Nov. 5, 1990, 104 Stat. 1573, added item 1418A.

1988—Pub. L. 100–689, title I, §§ 101(b), 103(c), 107(a)(3), Nov. 18, 1988, 102 Stat. 4162, 4166, 4168, added items 1417 to 1419.

1986—Pub. L. 99–576, title III, § 301(d)(2), Oct. 28, 1986, 100 Stat. 3268, amended item 1432 generally, substituting ''Limitations'' for ''Limitation''.

SUBCHAPTER I—PURPOSES; DEFINITIONS

§ 3001. Purposes

The purposes of this chapter are—

(1) to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service;

(2) to extend the benefits of a higher education to qualifying men and women who might not otherwise be able to afford such an education;

(3) to provide for vocational readjustment and to restore lost educational opportunities to those service men and women who served on active duty after June 30, 1985;

(4) to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces;

(5) to give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces; and

(6) to enhance our Nation's competitiveness through the development of a more highly educated and productive work force.

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2553, § 1401; amended Pub. L. 100–48, § 5, June 1, 1987, 101 Stat. 331; renumbered § 3001, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3001 was renumbered section 5101 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1401 of this title as this section.

1987—Pars. (2) to (6). Pub. L. 100–48 added pars. (2), (3), and (6), redesignated former pars. (2) and (3) as (4) and (5), respectively, struck out ''and'' after ''Forces;'' in par. (4), and substituted ''Forces; and'' for ''Forces.'' in par. (5).

§ 3002. Definitions

For the purposes of this chapter—

(1) The term ''basic educational assistance'' means educational assistance provided under subchapter II of this chapter.

(2) The term ''supplemental educational assistance'' means educational assistance provided under subchapter III of this chapter.

(3) The term ''program of education''—

(A) has the meaning given such term in section 3452(b) of this title;

(B) includes—

(i) a preparatory course for a test that is required or used for admission to an institution of higher education; and

(ii) a preparatory course for a test that is required or used for admission to a graduate school; and

(C) in the case of an individual who is not serving on active duty, includes (i) a full-time program of apprenticeship or of other on-job training approved as provided in clause (1) or (2), as appropriate, of section 3687(a) of this title, and (ii) a cooperative program (as defined in section 3482(a)(2) of this title).

(4) The term ''Selected Reserve'' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 10143(a) of title 10.

(5) The term ''Secretary of Defense'' means the Secretary of Defense, except that it means the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(6) The term ''active duty'' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 12103(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(7) The term ''active duty'' includes full-time National Guard duty first performed after June

30, 1985, by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard.

(8) The term ''educational institution'' has the meaning given such term in section 3452(c) of this title.

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2554, § 1402; amended Pub. L. 99–576, title III, § 301(a), Oct. 28, 1986, 100 Stat. 3267; Pub. L. 100–689, title I, §§ 108(a)(1), 111(a)(1), Nov. 18, 1988, 102 Stat. 4169, 4170; Pub. L. 101–237, title IV, § 423(b)(3), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 101–510, div. A, title V, § 563(a), Nov. 5, 1990, 104 Stat. 1575; renumbered § 3002 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–337, div. A, title XVI, § 1677(d)(2), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 103–446, title VI, § 603(b), Nov. 2, 1994, 108 Stat. 4671; Pub. L. 104–275, title I, § 107(a), Oct. 9, 1996, 110 Stat. 3329; Pub. L. 106–117, title VII, § 701, Nov. 30, 1999, 113 Stat. 1582; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 109–163, div. A, title V, § 515(e)(2), Jan. 6, 2006, 119 Stat. 3236.)

PRIOR PROVISIONS

Prior sections 3002 to 3004 were renumbered sections 5102 to 5104 of this title, respectively.

Another prior section 3004, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1225, related to reopening of disallowed claims and to effective date of any subsequent awards, prior to repeal by Pub. L. 87–825, §§ 5(a), 7, Oct. 15, 1962, 76 Stat. 950, effective first day of second calendar month which begins after Oct. 15, 1962.

Prior sections 3005 to 3010 were renumbered sections 5105 to 5110 of this title, respectively.

AMENDMENTS

2006—Par. (6)(C). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

2002—Par. (5). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1999—Par. (3)(B), (C). Pub. L. 106–117 added subpar. (B) and redesignated former subpar. (B) as (C).

1996—Par. (7). Pub. L. 104–275 substituted ''June 30, 1985'' for ''November 29, 1989''.

1994—Par. (4). Pub. L. 103–337, § 1677(d)(2)(A), substituted ''section 10143(a) of title 10'' for ''section 268(b) of title 10''.

Par. (6). Pub. L. 103–337, § 1677(d)(2)(B), substituted ''section 12103(d) of title 10'' for ''section 511(d) of title 10''.

Par. (8). Pub. L. 103–446 added par. (8).

1991—Pub. L. 102–83, § 5(a), renumbered section 1402 of this title as this section.

Par. (3). Pub. L. 102–83, § 5(c)(1), substituted ''3452(b)'' for ''1652(b)'' in subpar. (A) and ''3687(a)'' for ''1787(a)'' and ''3482(a)(2)'' for ''1682(a)(2)'' in subpar. (B).

1990—Par. (7). Pub. L. 101–510 added par. (7).

1989—Par. (5). Pub. L. 101–237 amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The term 'Secretary' means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.''

1988—Par. (3)(B). Pub. L. 100–689, § 111(a)(1), substituted ''in the case of an individual who is not serving on active duty, includes'' for ''includes''.

Pub. L. 100–689, § 108(a)(1), inserted cl. (i) designation and added cl. (ii).

1986—Par. (3). Pub. L. 99–576 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The term 'program of education' has the meaning given such term in section 1652(b) of this title.''

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 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 563(b) of Pub. L. 101–510, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''The amendment made by this section [amending this section] shall apply only to individuals who before the date of entry on active duty, as defined in section 3002(7) [formerly 1402(7)] of title 38, United States Code (as added by subsection (a)), have never served on active duty as defined in section 101(21) of that title.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 108(c) of Pub. L. 100–689 provided that: ''The amendments made by this section [amending this section and sections 1432, 1602, and 1631 [now 3032, 3202, and 3231] of this title] shall take effect on January 1, 1989.''

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.

ELECTION OF BENEFITS UNDER 1996 AMENDMENTS

Section 107(b) of Pub. L. 104–275 provided that:

''(1) An individual may only become eligible for benefits under chapter 30 of title 38, United States Code, as a result of the amendment made by subsection (a) [amending this section] by making an election to become entitled to basic educational assistance under such chapter. The election may only be made during the nine-month period beginning on the date of the enactment of this Act [Oct. 9, 1996] and in the manner required by the Secretary of Defense.

''(2) In the case of any individual making an election under paragraph (1)—

''(A) the basic pay of an individual who, while a member of the Armed Forces, makes an election under paragraph (1) shall be reduced (in a manner determined by the Secretary of Defense) until the total amount by which such basic pay is reduced is $1,200; or

''(B) to the extent that basic pay is not so reduced before the individual's discharge or release from active duty, the Secretary of Veterans Affairs shall collect from an individual who makes such an election an amount equal to the difference between $1,200 and the total amount of reductions under subparagraph (A), which amount shall be paid into the Treasury as miscellaneous receipts.

''(3) In the case of any individual making an election under paragraph (1), the 10-year period referred to in section 3031 of such title shall begin on the later of—

''(A) the date determined under such section 3031; or

''(B) the date on which the election under paragraph (1) becomes effective.''

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

§ 3011. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

(i) who (I) in the case of an individual whose obligated period of active duty is three years or more, serves at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose obligated period of active duty is less than three years, serves at least two years of continuous active duty in the Armed Forces; or

(ii) who serves in the Armed Forces and is discharged or released from active duty (I) for a service-connected disability, by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10), for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy; (II) for the convenience of the Government, if, in the case of an individual with an obligated period of service of two years, the individual completes not less than 20 months of continuous active duty under that period of obligated service, or, in the case of an individual with an obligated period of service of at least three years, the individual completes not less than 30 months of continuous active duty under that period of obligated service; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy;

(B) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and was on active duty at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—

(i) after June 30, 1985, serves at least three years of continuous active duty in the Armed Forces; or

(ii) after June 30, 1985, is discharged or released from active duty (I) for a service-connected disability, by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10), for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph; (II) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy; or

(C) as of December 31, 1989, was eligible for educational assistance benefits under chapter 34 of this title and—

(i) was not on active duty on October 19, 1984;

(ii) reenlists or reenters on a period of active duty after October 19, 1984; and

(iii) on or after July 1, 1985, either—

(I) serves at least three years of continuous active duty in the Armed Forces; or

(II) is discharged or released from active duty (aa) for a service-connected disability, by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10), for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph, (bb) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (cc) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy;

(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and

(3) who, after completion of the service described in clause (1) of this subsection—

(A) continues on active duty;