

EFFECTIVE DATE

Section 101(c) of Pub. L. 100-689 provided that: "The amendments made by this section [enacting this section] shall take effect as of July 1, 1985."

§ 3018. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the "open period"), an individual who—

(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary of Defense shall prescribe, to withdraw an election made under section 3011(c)(1) or 3012(d)(1) of this title not to receive educational assistance under this chapter.

(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 3011(c)(1) or 3012(d)(1) of this title and who—

(1) while serving on active duty during the open period, makes a withdrawal of such an election;

(2) continues to serve the period of service which, at the beginning of the open period, such individual was obligated to serve;

(3)(A) serves the obligated period of service described in clause (2) of this subsection;

(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Secretary determines is not service connected, (iii) hardship, or (iv) 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 of the Navy); or

(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

(4) before applying for benefits under this section—

(A) completes the requirements of a secondary school diploma (or equivalency certificate); or

(B) 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; and

(5) upon completion of such obligated period of service—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 3011(c)(1) or 3012(d)(1) of this title shall be reduced by—

(1) \$1,200; or

(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by \$1,200, an amount less than \$1,200.

(d) A withdrawal under subsection (b)(1) of this section is irrevocable.

(Added Pub. L. 100-689, title I, §103(a), Nov. 18, 1988, 102 Stat. 4164, §1418; amended Pub. L. 101-237, title IV, §423(b)(1)(A), (4)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102-16, §10(a)(2), Mar. 22, 1991, 105 Stat. 55; renumbered §3018 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-86, title V, §506(b)(2), Aug. 14, 1991, 105 Stat. 426; Pub. L. 102-568, title III, §309(a), Oct. 29, 1992, 106 Stat. 4329; Pub. L. 105-368, title II, §203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 106-419, title I, §102(c), Nov. 1, 2000, 114 Stat. 1825; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

2002—Subsec. (b)(3)(B)(iv). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

2000—Subsec. (b)(4). Pub. L. 106-419 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "before completing such obligated period of service (i) has completed the requirements of a secondary school diploma (or an equivalency certificate), or (ii) has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and".

1998—Subsec. (b)(4)(ii). Pub. L. 105-368 substituted "successfully completed (or otherwise received academic credit for)" for "successfully completed".

1992—Subsec. (b)(3)(B)(iv). Pub. L. 102-568 added cl. (iv).

1991—Pub. L. 102-83, §5(a), renumbered section 1418 of this title as this section.

Subsec. (a). Pub. L. 102-86 made technical amendment to directory language of Pub. L. 101-237, § 423(b)(4)(A). See 1989 Amendment note below.

Pub. L. 102-83, § 5(c)(1), substituted "3011(c)(1) or 3012(d)(1)" for "1411(c)(1) or 1412(d)(1)" in concluding provisions.

Subsec. (b). Pub. L. 102-83, § 5(c)(1), substituted "3011(c)(1) or 3012(d)(1)" for "1411(c)(1) or 1412(d)(1)" in introductory provisions.

Subsec. (b)(4). Pub. L. 102-16 substituted "service (i)" for "service," and added cl. (ii).

Subsec. (c). Pub. L. 102-83, § 5(c)(1), substituted "3011(c)(1) or 3012(d)(1)" for "1411(c)(1) or 1412(d)(1)" in introductory provisions.

1989—Subsec. (a). Pub. L. 101-237, § 423(b)(4)(A), as amended by Pub. L. 102-86, inserted "of Defense" after "Secretary" in concluding provisions.

Subsec. (b)(3)(B). Pub. L. 101-237, § 423(b)(1)(A), substituted "Secretary" for "Administrator".

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 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105-368, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 309(b) of Pub. L. 102-568 provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if enacted on December 1, 1988."

EFFECTIVE DATE OF 1991 AMENDMENT

Section 506(b)(2) of Pub. L. 102-86 provided that the amendment made by that section is effective as of Dec. 18, 1989.

§ 3018A. Opportunity for certain active-duty personnel to enroll before being involuntarily separated from service

(a) Notwithstanding any other provision of law, an individual who—

(1) after February 2, 1991, is involuntarily separated (as such term is defined in section 1141 of title 10) with an honorable discharge;

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

(3) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such election before such separation pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Homeland Security shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable

election, pursuant to procedures referred to in paragraph (3), before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

(5) before such separation elects to receive assistance under this section pursuant to procedures referred to in paragraph (3),

is entitled to basic educational assistance under this chapter.

(b) The basic pay of an individual described in subsection (a) shall be reduced by \$1,200.

(c) A withdrawal referred to in subsection (a)(3) is irrevocable.

(d)(1) Except as provided in paragraph (3), an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) shall be disenrolled from such chapter 32 program as of the date of such election.

(2) For each individual who is disenrolled from such program, the Secretary shall refund—

(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) shall remain in such Account to make payments of benefits to such individual under section 3015(f) of this title.

(Added Pub. L. 101-510, div. A, title V, § 561(a)(1), Nov. 5, 1990, 104 Stat. 1571, § 1418A; amended Pub. L. 102-25, title VII, § 705(c)(1), Apr. 6, 1991, 105 Stat. 120; renumbered § 3018A and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, § 1201(d)(4), (i)(4), Nov. 2, 1994, 108 Stat. 4684, 4688; Pub. L. 105-368, title II, § 203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 107-296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 109-233, title V, § 503(5), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Subsec. (a)(4), (5). Pub. L. 109-233, § 503(5)(B), struck out "of this subsection" after "paragraph (3)".

Subsecs. (b), (c). Pub. L. 109-233, § 503(5)(A), struck out "of this section" after "subsection (a)" in subsec. (b) and after "subsection (a)(3)" in subsec. (c).

Subsec. (d)(1). Pub. L. 109-233, § 503(5)(B), struck out "of this subsection" after "paragraph (3)" and after "subsection (a)(4)".

Subsec. (d)(3). Pub. L. 109-233, § 503(5)(B), (C), struck out "of this subsection" after "paragraph (1)" and substituted "of this title" for "of this chapter".

2002—Subsec. (a)(3). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

1998—Subsec. (a)(2). Pub. L. 105-368 substituted "successfully completed (or otherwise received academic credit for)" for "successfully completed".

1994—Subsec. (a)(1). Pub. L. 103-446, § 1201(i)(4), substituted "after February 2, 1991," for "after December 31, 1990, or the end of the 90-day period beginning on the