

PRIOR PROVISIONS

Prior sections 3301 to 3305 and 3311 to 3313, which comprised chapter 57, were renumbered sections 5701 to 5705 and 5711 to 5713, respectively, of this title.

Prior sections 3401 to 3405, which comprised chapter 59, were renumbered sections 5901 to 5905, respectively, of this title.

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1643 of this title as this section and substituted “3222(c)” for “1622(c)”.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing and inserted “of Defense” after “Secretary” in four places.

1983—Pub. L. 98-160 inserted “of this title” after “section 1622(c)”.

CHAPTER 33—POST-9/11 EDUCATIONAL ASSISTANCE

SUBCHAPTER I—DEFINITIONS

Sec.

3301. Definitions.

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.
3312. Educational assistance: duration.
3313. Educational assistance: amount; payment.
3314. Tutorial assistance.
3315. Licensure and certification tests.
- 3315A. National tests.
3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service.
3317. Public-private contributions for additional educational assistance.
3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.
3319. Authority to transfer unused education benefits to family members.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

3321. Time limitation for use of and eligibility for entitlement.
3322. Bar to duplication of educational assistance benefits.
3323. Administration.
3324. Allocation of administration and costs.

AMENDMENTS

2011—Pub. L. 111-377, title I, §108(a)(2), Jan. 4, 2011, 124 Stat. 4119, added item 3315A.

SUBCHAPTER I—DEFINITIONS

§ 3301. Definitions

In this chapter:

(1) The term “active duty” has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b)):

(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A).

(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

(C) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, in ad-

dition to service described in subparagraph (B), full-time service—

(i) in the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard; or

(ii) in the National Guard under section 502(f) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

(2) The term “entry level and skill training” means the following:

(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training or One Station Unit Training.

(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called “A” School).

(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

(E) In the case of members of the Coast Guard, Basic Training and Skill Training (or so-called “A” School).

(3) The term “program of education” has the meaning given such term in section 3002, except to the extent otherwise provided in section 3313.

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

(Added Pub. L. 110-252, title V, §5003(a)(1), June 30, 2008, 122 Stat. 2359; amended Pub. L. 111-377, title I, §101(a), Jan. 4, 2011, 124 Stat. 4107.)

AMENDMENTS

2011—Par. (1)(C). Pub. L. 111-377, §101(a)(1), added subpar. (C).

Par. (2)(A). Pub. L. 111-377, §101(a)(2), inserted “or One Station Unit Training” before period at end.

Par. (2)(E). Pub. L. 111-377, §101(a)(3), inserted “and Skill Training (or so-called ‘A’ School)” before period at end.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title I, §101(d)(1)–(3), Jan. 4, 2011, 124 Stat. 4108, provided that:

“(1) SERVICE IN NATIONAL GUARD AS ACTIVE DUTY.—The amendment made by subsection (a)(1) [amending this section] shall take effect on August 1, 2009, as if included in the enactment of chapter 33 of title 38, United States Code, pursuant to the Post-9/11 Veterans Educational Assistance Act of 2008 (title V of Public Law 110-252) [see Short Title of 2008 Amendment note set out under section 101 of this title]. However, no benefits otherwise payable by reason of such amendment for the period beginning on August 1, 2009, and ending on September 30, 2011, may be paid before October 1, 2011.

“(2) ONE STATION UNIT TRAINING.—The amendment made by subsection (a)(2) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 4, 2011].

“(3) ENTRY LEVEL AND SKILL TRAINING FOR THE COAST GUARD.—The amendment made by subsection (a)(3) [amending this section] shall take effect on the date of

the enactment of this Act, and shall apply with respect to individuals entering service on or after that date.”

EFFECTIVE DATE

Chapter effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as an Effective Date of 2008 Amendment note under section 16163 of Title 10, Armed Forces.

FINDINGS

Pub. L. 110-252, title V, § 5002, June 30, 2008, 122 Stat. 2357, provided that: “Congress makes the following findings:

“(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

“(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

“(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many ‘G.I. Bills’ enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

“(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

“(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

“(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.”

APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM

Pub. L. 110-252, title V, § 5003(c), June 30, 2008, 122 Stat. 2375, provided that:

“(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

“(A) as of August 1, 2009—

“(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

“(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

“(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

“(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

“(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

“(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

“(B) as of the date of the individual’s election under this paragraph, meets the requirements for entitle-

ment to educational assistance under chapter 33 of title 38, United States Code (as so added).

“(2) CESSATION OF CONTRIBUTIONS TOWARD GI [SIC] BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

“(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

“(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

“(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

“(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

“(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

“(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

“(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

“(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

“(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

“(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

“(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

“(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under

such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

“(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI [SIC] BILL.—

“(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title, or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

“(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

“(ii) the fraction—

“(I) the numerator of which is—

“(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

“(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

“(II) the denominator of which is 36 months.

“(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

“(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

“(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

“(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.”

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection

(b) is entitled to educational assistance under this chapter.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

(1) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty; or

(ii) is discharged or released from active duty as described in subsection (c).

(2) An individual who—

(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

(3) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 36 months; or

(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

(4) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 30 months; or

(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

(5) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 24 months; or

(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).