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 section 203(a) of 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.

## § 3018C. Opportunity for certain VEAP participants to enroll

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

(1) is a participant on October 9, 1996, in the educational benefits program provided by chapter 32 of this title;

(2) is serving on active duty (excluding the periods referred to in section 3202(1)(C) of this title) on such date;

(3) 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;

(4) if discharged or released from active duty after the date on which the individual makes the election described in paragraph (5), is discharged or released therefrom with an honorable discharge; and

(5) during the one-year period beginning on October 9, 1996, makes an irrevocable election to receive benefits under this section in lieu of benefits under chapter 32 of this title, 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;

may elect to become entitled to basic educational assistance under this chapter.

(b) With respect to an individual who makes an election under subsection (a) to become entitled to basic education assistance under this chapter—

(1) the basic pay of the individual 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

(2) to the extent that basic pay is not so reduced before the individual's discharge or release from active duty as specified in subsection (a)(4), the Secretary shall collect from the individual an amount equal to the difference between $1,200 and the total amount of reductions under paragraph (1), which shall be paid into the Treasury of the United States as miscellaneous receipts.

(c)(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)(5) 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) to the individual, as provided in section 3223(b) of this title and subject to subsection (b)(2) of this section, 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.

(d) The procedures provided in regulations referred to in subsection (a) shall provide for notice of the requirements of subparagraphs (B), (C), and (D) of section 3011(a)(3) and of subparagraph (A) of section 3012(a)(3) of this title. Receipt of such notice shall be acknowledged in writing.

(e)(1) A qualified individual (described in paragraph (2)) may make an irrevocable election under this subsection, during the one-year period beginning on the date of the enactment of this subsection, to become entitled to basic educational assistance under this chapter. Such an election shall be made in the same manner as elections made under subsection (a)(5).

(2) A qualified individual referred to in paragraph (1) is an individual who meets each of the following requirements:

(A) The individual was a participant in the educational benefits program under chapter 32 of this title on or before October 9, 1996.

(B) The individual has continuously served on active duty since October 9, 1996 (excluding the periods referred to in section 3202(1)(C) of this title), through at least April 1, 2000.

(C) The individual meets the requirements of subsection (a)(3).

(D) The individual, when discharged or released from active duty, is discharged or released therefrom with an honorable discharge.

(3)(A) Subject to the succeeding provisions of this paragraph, with respect to a qualified individual who makes an election under paragraph (1) to become entitled to basic education assistance under this chapter—

(i) the basic pay of the qualified individual shall be reduced (in a manner determined by the Secretary concerned) until the total amount by which such basic pay is reduced is $2,700; and

(ii) to the extent that basic pay is not so reduced before the qualified individual's discharge or release from active duty as specified in subsection (a)(4), at the election of the qualified individual—

(I) the Secretary concerned shall collect from the qualified individual; or

(II) the Secretary concerned shall reduce the retired or retainer pay of the qualified individual by,

an amount equal to the difference between $2,700 and the total amount of reductions under clause (i), which shall be paid into the Treasury of the United States as miscellaneous receipts.

(B)(i) The Secretary concerned shall provide for an 18-month period, beginning on the date the qualified individual makes an election under paragraph (1), for the qualified individual to pay that Secretary the amount due under subparagraph (A).

(ii) Nothing in clause (i) shall be construed as modifying the period of eligibility for and entitlement to basic education assistance under this chapter applicable under section 3031 of this title.

(C) The provisions of subsection (c) shall apply to qualified individuals making elections under this subsection in the same manner as they applied to individuals making elections under subsection (a)(5).

(4) With respect to qualified individuals referred to in paragraph (3)(A)(ii), no amount of educational assistance allowance under this chapter shall be paid to the qualified individual until the earlier of the date on which—

(A) the Secretary concerned collects the applicable amount under subclause (I) of such paragraph; or

(B) the retired or retainer pay of the qualified individual is first reduced under subclause (II) of such paragraph.

(5) The Secretary, in conjunction with the Secretary of Defense, shall provide for notice to participants in the educational benefits program under chapter 32 of this title of the opportunity under this subsection to elect to become entitled to basic educational assistance under this chapter.

(Added Pub. L. 104–275, title I, § 106(a), Oct. 9, 1996, 110 Stat. 3327; amended Pub. L. 105–114, title IV, § 401(c), Nov. 21, 1997, 111 Stat. 2293; Pub. L. 105–368, title II, § 203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 106–398, § 1 [[div. A], title XVI, § 1601], Oct. 30, 2000, 114 Stat. 1654, 1654A–357; Pub. L. 106–419, title I, § 104(a)–(c)(1), Nov. 1, 2000, 114 Stat. 1827, 1828; Pub. L. 107–14, § 7(e)(1), June 5, 2001, 115 Stat. 33; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107–330, title III, § 308(g)(9), Dec. 6, 2002, 116 Stat. 2829.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 106–419, which was approved Nov. 1, 2000.

AMENDMENTS

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

Subsec. (e)(2)(B). Pub. L. 107–330 struck out comma after ''April''.

2001—Subsec. (b). Pub. L. 107–14 struck out ''or (e)'' after ''subsection (a)'' in introductory provisions.

2000—Pub. L. 106–419, § 104(c)(1), provided that as of the enactment of Pub. L. 106–419, the amendments made by Pub. L. 106–398, § 1 [[div. A], title XVI, § 1601], were deemed for all purposes not to have taken effect and that Pub. L. 106–398, § 1 [[div. A], title XVI, § 1601], ceased to be in effect. See Amendment notes below.

Subsec. (b). Pub. L. 106–419, § 104(b), substituted ''subsection (a) or (e)'' for ''subsection (a)'' in introductory provisions.

Pub. L. 106–398, § 1 [[div. A], title XVI, § 1601(b)], which substituted ''subsection (a) or (e)'' for ''subsection (a)'' in introductory provisions, was terminated by Pub. L. 106–419, § 104(c)(1). See Amendment note above.

Subsec. (e). Pub. L. 106–419, § 104(a), added subsec. (e).

Pub. L. 106–398, § 1 [[div. A], title XVI, § 1601(a)], which added a subsec. (e) substantially identical to the subsec. (e) added by Pub. L. 106–419, § 104(a), was terminated by Pub. L. 106–419, § 104(c)(1). See Amendment notes above.

1998—Subsec. (a)(3). Pub. L. 105–368 substituted ''successfully completed (or otherwise received academic credit for)'' for ''successfully completed''.

1997—Subsec. (a)(1). Pub. L. 105–114, § 401(c)(1), substituted ''October 9, 1996,'' for ''the date of the enactment of the Veterans' Benefits Improvements Act of 1996''.

Subsec. (a)(4). Pub. L. 105–114, § 401(c)(2), substituted ''after the date on which the individual makes the election described'' for ''during the one-year period specified''.

Subsec. (a)(5). Pub. L. 105–114, § 401(c)(3), substituted ''October 9, 1996'' for ''the date of the enactment of the Veterans' Benefits Improvements Act of 1996''.

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.

TREATMENT OF CERTAIN CONTRIBUTIONS

Pub. L. 107–14, § 7(e)(2), June 5, 2001, 115 Stat. 33, provided that: ''Any amount collected under section 3018C(b) of title 38, United States Code (whether by reduction in basic pay under paragraph (1) of that section, collection under paragraph (2) of that section, or both), with respect to an individual who enrolled in basic educational assistance under section 3018C(e) of that title, during the period beginning on November 1, 2000, and ending on the date of the enactment of this Act [June 5, 2001], shall be treated as an amount collected with respect to the individual under section 3018C(e)(3)(A) of that title (whether as a reduction in basic pay under clause (i) of that section, a collection under clause (ii) of that section, or both) for basic educational assistance under section 3018C of that title.''

## § 3019. Tutorial assistance

(a) An individual entitled to an educational assistance allowance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title, subject to the conditions applicable to an eligible veteran under such section.

(b) The amount of such benefits payable under this section may not exceed $100 per month, for a maximum of twelve months, or until a maximum of $1,200 is utilized. This amount is in addition to the amount of educational assistance allowance payable to the individual under this chapter.

(c)(1) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the individual under this section in excess of $600.

(2) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each