

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 de-

termined 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 deter-

mined 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;

(B) is discharged from active duty with an honorable discharge;

(C) is released after service on active duty characterized by the Secretary concerned as honorable service and 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; or

(D) 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.

(b)(1) Except as provided in paragraph (2), the basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (c)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay.

(2) In the case of an individual covered by paragraph (1) who is a member of the Selected Reserve, the Secretary of Defense shall collect from the individual an amount equal to \$1,200 not later than one year after completion by the individual of the two years of service on active duty providing the basis for such entitlement. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.

(3) Any amount by which the basic pay of an individual is reduced under this subsection shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.

(c)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

(2) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States

Naval Academy, the United States Air Force Academy, or the Coast Guard Academy is not eligible for educational assistance under this section.

(3) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section if the individual enters on active duty—

(A) before October 1, 1996; or

(B) after September 30, 1996, and while participating in such program received more than \$3,400 for each year of such participation.

(d)(1) For purposes of this chapter, any period of service described in paragraphs (2) and (3) of this subsection shall not be considered a part of an obligated period of active duty on which an individual's entitlement to assistance under this section is based.

(2) The period of service referred to in paragraph (1) is any period terminated because of a defective enlistment and induction based on—

(A) the individual's being a minor for purposes of service in the Armed Forces;

(B) an erroneous enlistment or induction; or

(C) a defective enlistment agreement.

(3) The period of service referred to in paragraph (1) is also any period of service on active duty which an individual in the Selected Reserve was ordered to perform under section 12301, 12302, 12304, 12306, or 12307 of title 10 for a period of less than 2 years.

(e)(1) Any individual eligible for educational assistance under this section who does not make an election under subsection (c)(1) may contribute amounts for purposes of receiving an increased amount of basic educational assistance as provided for under section 3015(g) of this title. Such contributions shall be in addition to any reductions in the basic pay of such individual under subsection (b).

(2) An individual covered by paragraph (1) may make the contributions authorized by that paragraph at any time while on active duty, but not more frequently than monthly.

(3) The total amount of the contributions made by an individual under paragraph (1) may not exceed \$600. Such contributions shall be made in multiples of \$20.

(4) Contributions under this subsection shall be made to the Secretary of the military department concerned. That Secretary shall deposit any amounts received as contributions under this subsection into the Treasury as miscellaneous receipts.

(f)(1) For the purposes of this chapter, a member referred to in paragraph (2) or (3) of this subsection who serves the periods of active duty referred to in that paragraph shall be deemed to have served a continuous period of active duty the length of which is the aggregate length of the periods of active duty referred to in that paragraph.

(2) This subsection applies to a member who—

(A) after a period of continuous active duty of not more than 12 months, is discharged or released from active duty under subclause (I) or (III) of subsection (a)(1)(A)(ii) of this section; and

(B) after such discharge or release, reenlists or re-enters on a period of active duty.

(3) This subsection applies to a member who after a period of continuous active duty as an enlisted member or warrant officer, and following successful completion of officer training school, is discharged in order to accept, without a break in service, a commission as an officer in the Armed Forces for a period of active duty.

(g) Notwithstanding section 3002(6)(A) of this title, a period during which an individual is assigned full time by the Armed Forces to a civilian institution for a course of education as described in such section 3002(6)(A) shall not be considered a break in service or a break in a continuous period of active duty of the individual for the purposes of this chapter.

(h)(1) Notwithstanding section 3002(6)(B) of this title, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in subparagraphs (A) and (C) of that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in such subparagraphs.

(2) This subsection applies to a member who—

(A) during the obligated period of active duty on which entitlement to assistance under this section is based, commences pursuit of a course of education—

(i) at a service academy; or

(ii) at a post-secondary school for the purpose of preparation for enrollment at a service academy;

(B) fails to complete the course of education; and

(C) re-enters on a period of active duty.

(i) The Secretary concerned shall inform any member of the Armed Forces who has not completed that member's obligated period of active duty (as described in subsection (a)(1)(A)) and who indicates the intent to be discharged or released from such duty for the convenience of the Government of the minimum active duty requirements for entitlement to educational assistance benefits under this chapter. Such information shall be provided to the member in a timely manner.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2554, §1411; amended Pub. L. 99-145, title VI, §674(1), Nov. 8, 1985, 99 Stat. 665; Pub. L. 99-576, title III, §§303(a)(1), 307(a)(1), 321(1), title VII, §702(8), Oct. 28, 1986, 100 Stat. 3268, 3269, 3277, 3302; Pub. L. 100-48, §3(a), June 1, 1987, 101 Stat. 331; Pub. L. 100-689, title I, §§102(a), 103(b)(1), 104(a), 111(a)(2)(A), (3), Nov. 18, 1988, 102 Stat. 4162, 4165, 4166, 4170, 4171; Pub. L. 101-237, title IV, §§409, 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2084, 2092; Pub. L. 101-510, div. A, title V, §562(a)(1), (2), (b), Nov. 5, 1990, 104 Stat. 1573, 1574; Pub. L. 102-16, §10(a)(1), Mar. 22, 1991, 105 Stat. 55; renumbered §3011, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §§302(a)(1), 303(a)(1), 304(a), 305(a), 306(a), Oct. 29, 1992, 106 Stat. 4326-4328; Pub. L. 103-446, title XII, §1201(e)(10), (f)(2), Nov. 2, 1994, 108 Stat. 4685, 4687; Pub. L. 104-106, div. A, title XV, §1501(e)(2)(A), Feb. 10, 1996, 110 Stat. 501; Pub. L. 104-201, div. A, title V, §556(a), Sept. 23, 1996, 110

Stat. 2528; Pub. L. 105-368, title II, §§203(a), 207(a), Nov. 11, 1998, 112 Stat. 3326, 3328; Pub. L. 106-117, title VII, §§702(a), 704, Nov. 30, 1999, 113 Stat. 1583, 1584; Pub. L. 106-419, title I, §§102(a)(1), 103(a), 105(a)(1), Nov. 1, 2000, 114 Stat. 1824, 1825, 1828; Pub. L. 107-14, §7(a)(1), (c)(1), June 5, 2001, 115 Stat. 31, 32; Pub. L. 107-103, title I, §§105(a), 106(a), Dec. 27, 2001, 115 Stat. 982, 983; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107-330, title III, §308(a), Dec. 6, 2002, 116 Stat. 2827; Pub. L. 108-454, title I, §109(a), Dec. 10, 2004, 118 Stat. 3604; Pub. L. 109-444, §8(b)(2), Dec. 21, 2006, 120 Stat. 3313; Pub. L. 109-461, title X, §§1004(b)(2), 1006(b), Dec. 22, 2006, 120 Stat. 3466, 3468; Pub. L. 110-317, §6(c)(1), Aug. 29, 2008, 122 Stat. 3529.)

PRIOR PROVISIONS

Prior section 3011 was renumbered section 5111 of this title.

Another prior section 3011, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227; Pub. L. 86-490, June 8, 1960, 74 Stat. 161, related to the effective date of an award of increased compensation, dependency and indemnity compensation, or pension, prior to repeal by Pub. L. 87-825, §5(a), Oct. 15, 1962, 76 Stat. 950.

AMENDMENTS

2008—Subsec. (a)(1)(A)(ii), (B)(ii), (C)(iii)(II). Pub. L. 110-317 inserted “by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10),” after “service-connected disability.”

2006—Subsec. (a)(1)(A)(ii)(III). Pub. L. 109-461, §1006(b), provided that as of the enactment of Pub. L. 109-461, the amendments made by Pub. L. 109-444 were deemed for all purposes not to have taken effect and that Pub. L. 109-444 ceased to be in effect. See Amendment notes below and section 1006(b) of Pub. L. 109-461, set out as a Coordination of Provisions With Pub. L. 109-444 note under section 101 of this title.

Pub. L. 109-461, §1004(b)(2), made technical amendment to directory language of Pub. L. 107-296. See 2002 Amendment note below.

Pub. L. 109-444, which made amendment identical to the amendment made by Pub. L. 109-461, §1004(b)(2), was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

2004—Subsec. (b). Pub. L. 108-454 substituted “(1) Except as provided in paragraph (2), the basic pay” for “The basic pay”, added par. (2), and designated second sentence of existing provisions as par. (3) and substituted “this subsection” for “this chapter”.

2002—Subsec. (a)(1)(A)(ii)(I). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (a)(1)(A)(ii)(III). Pub. L. 107-296, as amended by Pub. L. 109-461, §1004(b)(2), substituted “of Homeland Security” for “of Transportation”.

Subsec. (a)(1)(B)(ii)(III). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (a)(1)(C)(ii). Pub. L. 107-330 struck out “on or” after “active duty”.

Subsec. (a)(1)(C)(iii)(II)(cc). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (a)(1)(A)(i). Pub. L. 107-14, §7(a)(1), substituted “(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” for “serves an obligated period of active duty of”.

Subsec. (a)(1)(C). Pub. L. 107-103, §105(a), added subpar. (C).

Subsec. (c)(3)(B). Pub. L. 107-103, §106(a), substituted “\$3,400” for “\$2,000”.

Subsec. (e)(2). Pub. L. 107-14, §7(c)(1)(A), inserted “, but not more frequently than monthly” before period.

Subsec. (e)(3). Pub. L. 107-14, §7(c)(1)(B), substituted “multiples of \$20” for “multiples of \$4”.

Subsec. (e)(4). Pub. L. 107-14, §7(c)(1)(C), substituted “Secretary of the military department concerned. That” for “Secretary. The” and struck out “by the Secretary” after “any amounts received”.

2000—Subsec. (a)(1)(A)(i). Pub. L. 106-419, §103(a)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: “who (I) serves, as the individual’s initial obligated period of active duty, at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose initial period of active duty is less than three years, serves at least two years of continuous active duty in the Armed Forces; or”.

Subsec. (a)(1)(A)(ii)(II). Pub. L. 106-419, §103(a)(1)(B), substituted “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” for “in the case of an individual who completed not less than 20 months of continuous active duty, if the initial obligated period of active duty of the individual was less than three years, or in the case of an individual who completed not less than 30 months of continuous active duty if the initial obligated period of active duty of the individual was at least three years”.

Subsec. (a)(2). Pub. L. 106-419, §102(a)(1)(A), added par. (2) and struck out former par. (2) which read as follows: “who, except as provided in subsection (e) of this section, completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

“(A) the original ending date of the individual’s initial obligated period of active duty in the case of an individual described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date; or
“(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

except that (i) an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having 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 (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed (or otherwise received academic credit for) the equivalent of such 12 semester hours before the end of the individual’s initial obligated period of active duty; and”.

Subsec. (d)(1). Pub. L. 106-419, §103(a)(2), substituted “obligated period of active duty on which an individual’s entitlement to assistance under this section is based” for “individual’s initial obligated period of active duty”.

Subsec. (e). Pub. L. 106-419, §105(a)(1), added subsec. (e).

Pub. L. 106-419, §102(a)(1)(B), struck out subsec. (e) which read as follows: “For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before October 28, 1994, shall be considered to have completed such requirements within the individual’s initial obligated period of active duty.”

Subsec. (h)(2)(A). Pub. L. 106-419, §103(a)(3), substituted “during the obligated period of active duty on which entitlement to assistance under this section is based,” for “during an initial period of active duty,”.

Subsec. (i). Pub. L. 106-419, §103(a)(4), struck out “initial” before “obligated period”.

1999—Subsec. (f)(1). Pub. L. 106-117, §702(a)(1), substituted “paragraph (2) or (3)” for “paragraph (2)”.

Subsec. (f)(3). Pub. L. 106-117, §702(a)(2), added par. (3).

Subsec. (i). Pub. L. 106-117, § 704, struck out "Federal" before "Government".

1998—Subsec. (a)(2). Pub. L. 105-368, § 203(a), substituted "successfully completed (or otherwise received academic credit for)" for "successfully completed" in two places in concluding provisions.

Subsec. (i). Pub. L. 105-368, § 207(a), added subsec. (i). 1996—Subsec. (c)(2). Pub. L. 104-201, § 556(a)(1), struck out "or upon completion of a program of educational assistance under section 2107 of title 10" after "Coast Guard Academy".

Subsec. (c)(3). Pub. L. 104-201, § 556(a)(2), added par. (3).

Subsec. (d)(3). Pub. L. 104-106 substituted "section 12301, 12302, 12304, 12306, or 12307 of title 10" for "section 672, 673, 673b, 674, or 675 of title 10".

1994—Subsec. (e). Pub. L. 103-446, § 1201(f)(2), substituted "October 28, 1994," for "the end of the 24-month period beginning on the date of the enactment of this subsection".

Subsec. (f)(1). Pub. L. 103-446, § 1201(e)(10), substituted "the length of which" for "whose length".

1992—Subsec. (a)(1)(B). Pub. L. 102-568, § 302(a)(1), substituted "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" for "on October 19, 1984, and without a break in service since October 19, 1984,".

Subsec. (a)(2). Pub. L. 102-568, § 303(a)(1)(A), inserted ", except as provided in subsection (e) of this section," after "who".

Subsec. (e). Pub. L. 102-568, § 303(a)(1)(B), added subsec. (e).

Subsec. (f). Pub. L. 102-568, § 304(a), added subsec. (f). Subsec. (g). Pub. L. 102-568, § 305(a), added subsec. (g). Subsec. (h). Pub. L. 102-568, § 306(a), added subsec. (h). 1991—Pub. L. 102-83 renumbered section 1411 of this title as this section.

Subsec. (a)(3). Pub. L. 102-16 added cls. (A) to (C), redesignated former cl. (C) as (D), and struck out former cls. (A) and (B) which read as follows:

"(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".

1990—Subsec. (a)(1)(A)(ii)(I). Pub. L. 101-510, § 562(a)(1), substituted "for" for "or for" and inserted ", 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 Transportation with respect to the Coast Guard when it is not operating as a service in the Navy" after "hardship".

Subsec. (a)(1)(B)(ii)(I). Pub. L. 101-510, § 562(a)(2), substituted "for" for "or for" and inserted ", or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph" after "hardship".

Subsec. (d)(1). Pub. L. 101-510, § 562(b)(1), substituted "paragraphs (2) and (3)" for "paragraph (2)".

Subsec. (d)(3). Pub. L. 101-510, § 562(b)(2), added par. (3).

1989—Subsec. (a)(1)(A)(ii), (B)(ii). Pub. L. 101-237, § 423(b)(1)(A), substituted "Secretary" for "Administrator".

Subsec. (a)(2). Pub. L. 101-237, § 409, in concluding provisions, inserted cl. (i) designation and added cl. (ii).

1988—Subsec. (a)(1)(A)(i)(I). Pub. L. 100-689, § 111(a)(2)(A), inserted ", as the individual's initial obligated period of active duty," after "serves".

Subsec. (a)(1)(A)(ii). Pub. L. 100-689, § 102(a), inserted in subcl. (I) ", for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected," substituted a semicolon for ", or" before subcl. (II), and added subcl. (III).

Subsec. (a)(1)(B)(ii). Pub. L. 100-689, § 102(a), inserted in subcl. (I) ", for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected," substituted a semicolon for ", or" before subcl. (II), and added subcl. (III).

Subsec. (a)(2). Pub. L. 100-689, § 104(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "who, before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and".

Subsec. (b). Pub. L. 100-689, § 103(b)(1), substituted "reduced under this chapter" for "reduced under this subsection".

Subsec. (d). Pub. L. 100-689, § 111(a)(3), added subsec. (d).

1987—Subsec. (a)(1)(A). Pub. L. 100-48 substituted "after June 30, 1985" for "during the period beginning on July 1, 1985, and ending on June 30, 1988".

1986—Subsec. (a). Pub. L. 99-576, § 702(8), inserted a comma after "of this section".

Subsec. (a)(1)(A)(ii)(II). Pub. L. 99-576, § 321(1)(A), inserted "continuous" after "months of" in two places.

Subsec. (a)(1)(B). Pub. L. 99-576, § 307(a)(1), inserted "and was on active duty on October 19, 1984, and without a break in service since October 19, 1984,".

Subsec. (a)(1)(B)(ii)(II). Pub. L. 99-576, § 321(1)(B), inserted "continuous" after "months of".

Subsec. (b). Pub. L. 99-576, § 303(a)(1), substituted "Any amount by which the basic pay of an individual is reduced under this subsection shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual" for "Amounts withheld from basic pay under this subsection shall revert to the Treasury".

1985—Subsec. (a)(1)(B). Pub. L. 99-145 struck out "and without a break in service on active duty since December 31, 1976," after "chapter 34 of this title".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-317 applicable with respect to any sole survivorship discharge granted after Sept. 11, 2001, see section 110 of Pub. L. 110-317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-461, title X, § 1004(b), Dec. 22, 2006, 120 Stat. 3466, provided that the amendment made by section 1004(b) is effective Nov. 25, 2002.

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 2001 AMENDMENTS

Pub. L. 107-103, title I, § 106(b), Dec. 27, 2001, 115 Stat. 983, provided that: "The amendments made by subsection (a) [amending this section and section 3012 of this title] shall apply with respect to educational assistance allowances paid under chapter 30 of title 38, United States Code, for months beginning after the date of the enactment of this Act [Dec. 27, 2001]."

Pub. L. 107-14, § 7(a)(2), June 5, 2001, 115 Stat. 31, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if enacted on November 1, 2000, immediately after the enactment of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106-419)."

Pub. L. 107-14, § 7(c)(4), June 5, 2001, 115 Stat. 33, provided that: "The amendments made by this subsection [amending this section and sections 3012 and 3015 of this title] shall take effect as if included in the enactment of section 105 of the Veterans Benefits and Health Care

Improvement Act of 2000 (Public Law 106-419; 114 Stat. 1828)."

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title I, §105(c), Nov. 1, 2000, 114 Stat. 1829, provided that: "The amendments made by this section [amending this section and sections 3012 and 3015 of this title] shall take effect on May 1, 2001."

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-117, title VII, §702(c), Nov. 30, 1999, 113 Stat. 1583, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 30, 1999] and apply with respect to an individual first appointed as a commissioned officer on or after July 1, 1985."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title II, §203(b), Nov. 11, 1998, 112 Stat. 3326, provided that: "The amendments made by subsection (a) [amending this section and sections 3012 and 3018 to 3018C of this title] shall take effect on October 1, 1998."

Pub. L. 105-368, title II, §207(d)(1), Nov. 11, 1998, 112 Stat. 3328, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 3012 of this title] shall take effect 120 days after the date of the enactment of this Act [Nov. 11, 1998]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 302(b) of Pub. L. 102-568 provided that: "The amendments made by this section [amending this section and sections 3012 and 3031 of this title] shall take effect as of October 28, 1986."

Section 304(b) of Pub. L. 102-568 provided that: "The amendments made by subsection (a) [amending this section] shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993."

Section 305(b) of Pub. L. 102-568 provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if enacted on October 19, 1984."

Section 306(b) of Pub. L. 102-568 provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993."

EFFECTIVE DATE OF 1990 AMENDMENT

Section 562(c) of Pub. L. 101-510 provided that: "The amendments made by this section [amending this section and sections 1412 and 3103A [now 3012 and 5303A] of this title] shall take effect as of October 19, 1984."

EFFECTIVE DATE OF 1988 AMENDMENT

Section 102(c) of Pub. L. 100-689 provided that: "The amendments made by this section [amending this section and sections 1412, 1413, and 3103A [now 3012, 3013, and 5303A] of this title] shall take effect—

"(1) as of July 1, 1985, with respect to individuals discharged or released for a medical condition which preexisted service on active duty or in the Selected Reserve and which the Administrator determines is not service connected; and

"(2) as of October 1, 1987, with respect to individuals involuntarily discharged or released for the convenience of the Government as a result of a reduction in force."

EFFECTIVE DATE OF 1986 AMENDMENT

Section 303(b) of Pub. L. 99-576 provided that: "The amendments made by subsection (a) [amending this

section and section 1412 [now 3012] of this title] shall apply to any reduction in basic pay made under section 1411(b) [now 3011(b)] or 1412(c) [now 3012(c)] of title 38, United States Code, after December 31, 1985."

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.

TRANSITIONAL PROVISION FOR INDIVIDUALS DISCHARGED BETWEEN ENACTMENT AND EFFECTIVE DATE

Pub. L. 106-419, title I, §105(d), Nov. 1, 2000, 114 Stat. 1830, provided that:

"(1) During the period beginning on May 1, 2001, and ending on July 31, 2001, an individual described in paragraph (2) may make contributions under section 3011(e) or 3012(f) of title 38, United States Code (as added by subsection (a)), whichever is applicable to that individual, without regard to paragraph (2) of that section and otherwise in the same manner as an individual eligible for educational assistance under chapter 30 of such title who is on active duty.

"(2) Paragraph (1) applies in the case of an individual who—

"(A) is discharged or released from active duty during the period beginning on the date of the enactment of this Act [Nov. 1, 2000] and ending on April 30, 2001; and

"(B) is eligible for educational assistance under chapter 30 of title 38, United States Code."

NOTIFICATION REQUIREMENT

Section 303(b) of Pub. L. 102-568 directed Secretary of each military department, not later than 60 days after Oct. 29, 1992, to notify each individual who was on active duty in the Armed Forces on Aug. 2, 1990, and who had not met the requirements of a secondary school diploma (or equivalency certificate), of the extension of the period for the completion of such requirements afforded by the amendments made by this section to this section and section 3012 of this title.

§ 3012. Basic educational assistance entitlement for service in the Selected Reserve

(a) Except as provided in subsection (d) 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) serves an obligated period of active duty of at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(ii) subject to subsection (b) of this section and beginning within one year after completion of the service on active duty described in subclause (i) of this clause, serves at least four years of continuous duty in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

(B) as of December 31, 1989, is eligible for educational assistance 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 two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(ii) after June 30, 1985, subject to subsection (b) of this section and beginning within one year after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned; or

(C) as of December 31, 1989, was eligible for educational assistance 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—

(I) serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(II) subject to subsection (b) of this section and beginning within one year after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;

(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) is discharged from service with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

(B) continues on active duty or in the Selected Reserve;

is entitled to basic educational assistance under this chapter.

(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 20 months of such service, for the convenience of the Government, (v)

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, (vi) for a physical or mental condition that was not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title, or (vii) by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).

(B) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual—

(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces 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, or for a physical or mental condition not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title, if the individual was obligated, at the beginning of such two years of service, to serve such four years of service;

(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected disability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the Secretary determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service, for the convenience of the Government, (V) 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, (VI) for a physical or mental condition not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title, or (VII) by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10); or

(iii) who, before completing the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on September 30, 1999, by reason of the inactivation of the person's unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 10143(a) of title 10.

(2) After an individual begins service in the Selected Reserve within one year after completion of the service described in clause (A)(i) or

(B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve shall not be considered to be broken—

(A) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of the member's Armed Force that the member is eligible to join or that has a vacancy; or

(B) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

(c)(1) Except as provided in paragraph (2), the basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (d)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay.

(2) In the case of an individual covered by paragraph (1) who is a member of the Selected Reserve, the Secretary of Defense shall collect from the individual an amount equal to \$1,200 not later than one year after completion by the individual of the two years of service on active duty providing the basis for such entitlement. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.

(3) Any amount by which the basic pay of an individual is reduced under this subsection shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.

(d)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

(2) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy is not eligible for educational assistance under this section.

(3) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section if the individual enters on active duty—

(A) before October 1, 1996; or

(B) after September 30, 1996, and while participating in such program received more than \$3,400 for each year of such participation.

(e)(1) An individual described in subclause (I) or (III) of subsection (b)(1)(B)(ii) of this section may elect entitlement to basic educational assistance under section 3011 of this title, based on an obligated period of active duty of two years, in lieu of entitlement to assistance under this section.

(2) An individual who makes the election described in paragraph (1) of this subsection shall, for all purposes of this chapter, be considered entitled to educational assistance under section 3011 of this title and not under this section. Such an election is irrevocable.

(f)(1) Any individual eligible for educational assistance under this section who does not make an election under subsection (d)(1) may contribute amounts for purposes of receiving an increased amount of basic educational assistance as provided for under section 3015(g) of this title. Such contributions shall be in addition to any reductions in the basic pay of such individual under subsection (c).

(2) An individual covered by paragraph (1) may make the contributions authorized by that paragraph at any time while on active duty, but not more frequently than monthly.

(3) The total amount of the contributions made by an individual under paragraph (1) may not exceed \$600. Such contributions shall be made in multiples of \$20.

(4) Contributions under this subsection shall be made to the Secretary of the military department concerned. That Secretary shall deposit any amounts received as contributions under this subsection into the Treasury as miscellaneous receipts.

(g)(1) The Secretary concerned shall inform any member of the Armed Forces who has not completed that member's initial service (as described in paragraph (2)) and who indicates the intent to be discharged or released from such service for the convenience of the Government of the minimum service requirements for entitlement to educational assistance benefits under this chapter. Such information shall be provided to the member in a timely manner.

(2) The initial service referred to in paragraph (1) is the initial obligated period of active duty (described in subparagraph (A)(i) or (B)(i) of subsection (a)(1)) or the period of service in the Selected Reserve (described in subparagraphs (A)(ii) or (B)(ii) of subsection (a)(1)).

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2555, §1412; amended Pub. L. 99-145, title VI, §674(2), Nov. 8, 1985, 99 Stat. 665; Pub. L. 99-576, title III, §§303(a)(2), 307(a)(2), 321(2), Oct. 28, 1986, 100 Stat. 3269, 3277; Pub. L. 100-48, §3(b), June 1, 1987, 101 Stat. 331; Pub. L. 100-689, title I, §§102(b)(1), 103(b)(1), 104(b), 105, 111(a)(2)(B), Nov. 18, 1988, 102 Stat. 4162, 4165, 4166, 4171; Pub. L. 101-237, title IV, §§409, 423(a)(1), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2084, 2090, 2092; Pub. L. 101-510, div. A, title V, §562(a)(3), Nov. 5, 1990, 104 Stat. 1574; renumbered §3012 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-484, div. D, title XLIV, §4419(b), Oct. 23, 1992, 106 Stat. 2718; Pub. L. 102-568, title III, §§302(a)(2), 303(a)(2), Oct. 29, 1992, 106 Stat. 4326, 4327; Pub. L. 103-160, div. A, title V, §561(m), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-446, title XII, §1201(f)(2), Nov. 2,

1994, 108 Stat. 4687; Pub. L. 104-106, div. A, title XV, §1501(e)(2)(B), Feb. 10, 1996, 110 Stat. 501; Pub. L. 104-201, div. A, title V, §556(b), Sept. 23, 1996, 110 Stat. 2528; Pub. L. 105-368, title II, §§203(a), 207(b), Nov. 11, 1998, 112 Stat. 3326, 3328; Pub. L. 106-117, title VII, §704, Nov. 30, 1999, 113 Stat. 1584; Pub. L. 106-419, title I, §§102(b), 103(b), 105(a)(2), title IV, §404(a)(6), Nov. 1, 2000, 114 Stat. 1824, 1826, 1829, 1865; Pub. L. 107-14, §7(c)(2), June 5, 2001, 115 Stat. 32; Pub. L. 107-103, title I, §§105(b), 106(a), Dec. 27, 2001, 115 Stat. 982, 983; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 108-454, title I, §109(b), Dec. 10, 2004, 118 Stat. 3604; Pub. L. 109-233, title V, §503(3), June 15, 2006, 120 Stat. 416; Pub. L. 110-317, §6(c)(2), Aug. 29, 2008, 122 Stat. 3529.)

PRIOR PROVISIONS

Prior section 3012 was renumbered section 5112 of this title.

AMENDMENTS

2008—Subsec. (b)(1)(A). Pub. L. 110-317, §6(c)(2)(A), substituted “, (vi)” for “, or (vi)” and inserted before period at end “, or (vii) by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10)”.

Subsec. (b)(1)(B)(i). Pub. L. 110-317, §6(c)(2)(B)(i), inserted “by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10),” after “service-connected disability.”

Subsec. (b)(1)(B)(ii). Pub. L. 110-317, §6(c)(2)(B)(ii)(II), which directed the insertion of “, or (VII) by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10)” before the period at end, was executed by making the insertion before “; or” to reflect the probable intent of Congress.

Pub. L. 110-317, §6(c)(2)(B)(ii)(D), substituted “, (VI)” for “, or (VI)”.

2006—Subsec. (a)(1)(C)(ii). Pub. L. 109-233 struck out “on or” after “active duty”.

2004—Subsec. (c). Pub. L. 108-454 substituted “(1) Except as provided in paragraph (2), the basic pay” for “The basic pay”, added par. (2), designated second sentence of existing provisions as par. (3), and substituted “this subsection” for “this chapter”.

2002—Subsec. (b)(1)(A)(v), (B)(ii)(V). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (a)(1)(C). Pub. L. 107-103, §105(b), added subpar. (C).

Subsec. (d)(3)(B). Pub. L. 107-103, §106(a), substituted “\$3,400” for “\$2,000”.

Subsec. (f)(2). Pub. L. 107-14, §7(c)(2)(A), inserted “, but not more frequently than monthly” before period.

Subsec. (f)(3). Pub. L. 107-14, §7(c)(2)(B), substituted “multiples of \$20” for “multiples of \$4”.

Subsec. (f)(4). Pub. L. 107-14, §7(c)(2)(C), substituted “Secretary of the military department concerned. That” for “Secretary. The” and struck out “by the Secretary” after “any amounts received”.

2000—Subsec. (a)(1)(A)(i). Pub. L. 106-419, §103(b)(1), substituted “an obligated period of active duty of at least two years of continuous active duty in the Armed Forces” for “, as the individual’s initial obligated period of active duty, at least two years of continuous active duty in the Armed Forces”.

Subsec. (a)(2). Pub. L. 106-419, §102(b)(1), added par. (2) and struck out former par. (2) which read as follows: “who, except as provided in subsection (f) of this section, before completion of the service described in clause (1) of this subsection, has completed the requirements of a secondary school diploma (or an equivalency certificate), except that (i) an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having 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 (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed (or otherwise received academic credit for) the equivalent of such 12 semester hours before the end of the individual’s initial obligated period of active duty; and”.

Subsec. (e)(1). Pub. L. 106-419, §103(b)(2), struck out “initial” before “obligated period”.

Subsec. (f). Pub. L. 106-419, §105(a)(2), added subsec. (f).

Pub. L. 106-419, §102(b)(2), struck out subsec. (f) which read as follows: “For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before October 28, 1994, shall be considered to have completed such requirements within the individual’s initial obligated period of active duty.”

Subsec. (g)(2). Pub. L. 106-419, §404(a)(6), substituted “subparagraph” for “subparagraphs” in two places.

1999—Subsec. (g)(1). Pub. L. 106-117 struck out “Federal” before “Government”.

1998—Subsec. (a)(2)(i), (ii). Pub. L. 105-368, §203(a), substituted “successfully completed (or otherwise received academic credit for)” for “successfully completed”.

Subsec. (g). Pub. L. 105-368, §207(b), added subsec. (g). 1996—Subsec. (b)(1)(B)(iii). Pub. L. 104-106 substituted “section 10143(a) of title 10” for “section 268(b) of title 10”.

Subsec. (d)(2). Pub. L. 104-201, §556(b)(1), struck out “or upon completion of a program of educational assistance under section 2107 of title 10” after “Coast Guard Academy”.

Subsec. (d)(3). Pub. L. 104-201, §556(b)(2), added par. (3).

1994—Subsec. (f). Pub. L. 103-446 substituted “October 28, 1994,” for “the end of the 24-month period beginning on the date of the enactment of this subsection”.

1993—Subsec. (b)(1)(B)(iii). Pub. L. 103-160 substituted “September 30, 1999” for “September 30, 1995”.

1992—Subsec. (a)(1)(B). Pub. L. 102-568, §302(a)(2), substituted “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” for “on October 19, 1984, and without a break in service since October 19, 1984.”

Subsec. (a)(2). Pub. L. 102-568, §303(a)(2)(A), inserted “except as provided in subsection (f) of this section,” after “who.”

Subsec. (b)(1)(B)(iii). Pub. L. 102-484 added cl. (iii).

Subsec. (f). Pub. L. 102-568, §303(a)(2)(B), added subsec. (f).

1991—Pub. L. 102-83, §5(a), renumbered section 1412 of this title as this section.

Subsec. (b)(1). Pub. L. 102-83, §5(c)(1), substituted “3011(a)(1)(A)(ii)(I)” for “1411(a)(1)(A)(ii)(I)” in subpars. (A) and (B)(i) and (ii).

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted “3011” for “1411” in pars. (1) and (2).

1990—Subsec. (b)(1)(A)(vi). Pub. L. 101-510, §562(a)(3)(A), added cl. (vi).

Subsec. (b)(1)(B)(i). Pub. L. 101-510, §562(a)(3)(B), substituted “disability, for” for “disability or for” and inserted “, or for a physical or mental condition not characterized as a disability, as described in section 1411(a)(1)(A)(ii)(I) of this title” before “if the individual”.

Subsec. (b)(1)(B)(ii)(VI). Pub. L. 101-510, §562(a)(3)(C), added subcl. (VI).

1989—Subsec. (a)(1)(A)(ii), (B)(ii). Pub. L. 101-237, §423(a)(1)(A), substituted “and beginning within one year after completion” for “and after completion”.

Subsec. (a)(2). Pub. L. 101-237, §409, inserted cl. (i) designation and added cl. (ii).

Subsec. (b)(1). Pub. L. 101-237, §423(b)(1)(A), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (b)(2). Pub. L. 101-237, §423(a)(1)(B), substituted "After an individual begins service in the Selected Reserve within one year after completion of the service described in clause (A)(i) or (B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve" for "Continuity of service of a member in the Selected Reserve for purposes of such clauses".

1988—Subsec. (a)(1)(A)(i). Pub. L. 100-689, §111(a)(2)(B), inserted "as the individual's initial obligated period of active duty."

Pub. L. 100-689, §102(b)(1)(B), inserted "subject to subsection (b) of this section."

Subsec. (a)(1)(B)(i). Pub. L. 100-689, §102(b)(1)(B), inserted "subject to subsection (b) of this section."

Subsec. (a)(2). Pub. L. 100-689, §104(b), substituted "completed the requirements of a secondary school diploma" for "received a secondary school diploma", and inserted "except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree".

Subsec. (b)(1). Pub. L. 100-689, §102(b)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual who is discharged or released from service in the Selected Reserve for a service-connected disability, for hardship, or (in the case of an individual discharged or released after three and one-half years of such service) for the convenience of the Government."

Subsec. (c). Pub. L. 100-689, §103(b)(1), substituted "reduced under this chapter" for "reduced under this subsection".

Subsec. (e). Pub. L. 100-689, §105, added subsec. (e).

1987—Subsec. (a)(1)(A). Pub. L. 100-48 substituted "after June 30, 1985," for "during the period beginning on July 1, 1985, and ending on June 30, 1988".

1986—Subsec. (a). Pub. L. 99-576, §321(2)(A), substituted "subsection (d)" for "subsection (c)".

Subsec. (a)(1)(B). Pub. L. 99-576, §307(a)(2), inserted "and was on active duty on October 19, 1984, and without a break in service since October 19, 1984."

Subsec. (b)(1). Pub. L. 99-576, §321(2)(B), inserted "such" after "three and one-half years of".

Subsec. (c). Pub. L. 99-576, §303(a)(2), substituted "Any amount by which the basic pay of an individual is reduced under this subsection shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual" for "Any amounts withheld from basic pay under this paragraph shall revert to the Treasury".

1985—Subsec. (a)(1)(B). Pub. L. 99-145 struck out "and without a break in service on active duty since December 31, 1976," after "chapter 34 of this title".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-317 applicable with respect to any sole survivorship discharge granted after Sept. 11, 2001, see section 10 of Pub. L. 110-317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

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 2001 AMENDMENTS

Amendment by section 106(a) of Pub. L. 107-103 applicable with respect to educational assistance allowances paid under this chapter for months beginning after Dec. 27, 2001, see section 106(b) of Pub. L. 107-103, set out as a note under section 3011 of this title.

Amendment by Pub. L. 107-14 effective as if included in the enactment of section 105 of Pub. L. 106-419, see section 7(c)(4) of Pub. L. 107-14, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 105(a)(2) of Pub. L. 106-419 effective May 1, 2001, see section 105(c) of Pub. L. 106-419, set out as a note under section 3011 of this title.

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.

Amendment by section 207(b) of Pub. L. 105-368 effective 120 days after Nov. 11, 1998, see section 207(d)(1) of Pub. L. 105-368, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 302(a)(2) of Pub. L. 102-568 effective as of Oct. 28, 1986, see section 302(b) of Pub. L. 102-568, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-510 effective Oct. 19, 1984, see section 562(c) of Pub. L. 101-510, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 102(b)(1) of Pub. L. 100-689 effective July 1, 1985, with respect to individuals discharged or released for medical condition which preexisted service on active duty or in Selected Reserve and which Administrator determines is not service connected, and effective Oct. 1, 1987, with respect to individuals involuntarily discharged or released for convenience of Government as a result of reduction in force, see section 102(c) of Pub. L. 100-689, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 303(a)(2) of Pub. L. 99-576 applicable to any reduction in basic pay made under subsec. (c) of this section after Dec. 31, 1985, see section 303(b) of Pub. L. 99-576, set out as a note under section 3011 of this title.

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.

NOTIFICATION REQUIREMENT

For requirement of notification of individuals on active duty in Armed Forces on Aug. 2, 1990, of extension of period for completion of requirements for a secondary school diploma, see section 303(b) of Pub. L. 102-568, set out as a note under section 3011 of this title.

§ 3013. Duration of basic educational assistance

(a)(1) Subject to section 3695 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic edu-

cational assistance under section 3011 of this title is entitled to 36 months of educational assistance benefits under this chapter (or the equivalent thereof in part-time educational assistance).

(2) Subject to section 3695 of this title and subsection (d) of this section, in the case of an individual described in section 3011(a)(1)(A)(ii)(I) or (III) of this title who is not also described in section 3011(a)(1)(A)(i) of this title or an individual described in section 3011(a)(1)(B)(ii)(I) or (III) of this title who is not also described in section 3011(a)(1)(B)(i) of this title, the individual is entitled to one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the obligated period of active duty on which such entitlement is based in the case of an individual described in section 3011(a)(1)(A)(ii)(I) or (III) of this title, or in the case of an individual described in section 3011(a)(1)(B)(ii)(I) or (III) of this title, after June 30, 1985.

(b) Subject to section 3695 of this title and subsection (d) of this section, each individual entitled to basic educational assistance under section 3012 of this title is entitled to (1) one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the obligated period of active duty on which such entitlement is based in the case of an individual described in section 3012(a)(1)(A) of this title, or in the case of an individual described in section 3012(a)(1)(B) of this title, after June 30, 1985, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve after the applicable date specified in clause (1) of this subsection (other than any month in which the individual served on active duty).

(c)(1) Subject to section 3695 of this title and except as provided in paragraphs (2) and (3) of this subsection, each individual entitled to basic educational assistance under section 3018 of this title is entitled to 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance).

(2) Subject to section 3695 of this title, an individual described in clause (B) or (C) of section 3018(b)(3) of this title whose discharge or release from active duty prevents the reduction of the basic pay of such individual by \$1,200 is entitled to the number of months of assistance under this chapter that is equal to the lesser of—

(A) 36 multiplied by a fraction the numerator of which is the amount by which the basic pay of the individual has been reduced under section 3018(c) and the denominator of which is \$1,200; or

(B) the number of months the individual has served on continuous active duty after June 30, 1985.

(3) Subject to section 3695 of this title and subsection (d) of this section, an individual described in clause (B) or (C)(ii) of section 3018(b)(3) of this title (other than an individual described in paragraph (2) of this subsection) is entitled to the number of months of educational

assistance under this chapter that is equal to the number of months the individual has served on continuous active duty after June 30, 1985.

(d) Subject to section 3695 of this title, each individual entitled to educational benefits under section 3018A, 3018B, or 3018C of this title is entitled to the lesser of—

(1) 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance); or

(2) the number of months of such educational assistance (or such equivalent thereof) that is equal to the number of months served by such individual on active duty.

(e) No individual may receive basic educational assistance benefits under this chapter for a period in excess of 36 months (or the equivalent thereof in part-time educational assistance).

(f)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in paragraph (2) shall not—

(A) be charged against any entitlement of any individual under this chapter; or

(B) be counted toward the aggregate period for which section 3695 of this title limits an individual's receipt of assistance.

(2) Subject to paragraph (3), the payment of the educational assistance allowance referred to in paragraph (1) is the payment of such an allowance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(A) in the case of a person not serving on active duty, had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

(B) in the case of a person serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

(C) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A) or (B), his or her course pursuit.

(3) The period for which, by reason of this subsection, an educational assistance allowance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(C) of this subsection.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2557, §1413; amended Pub. L. 99-576, title III, §321(3), Oct. 28, 1986, 100 Stat. 3277; Pub. L. 100-689, title I, §§102(b)(2), 103(b)(2), 111(a)(4), Nov. 18, 1988, 102 Stat. 4163, 4165, 4171; Pub. L. 101-237, title IV, §423(a)(2), Dec. 18, 1989, 103 Stat. 2091; Pub. L. 101-510, div. A, title V, §561(b)(1), Nov. 5, 1990, 104 Stat. 1573; renumbered §3013 and amended Pub. L. 102-83, §5(a), (c)(1),

Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-127, §2(a), Oct. 10, 1991, 105 Stat. 619; Pub. L. 102-484, div. D, title XLIV, §4404(b)(2), Oct. 23, 1992, 106 Stat. 2706; Pub. L. 104-275, title I, §106(b)(2), Oct. 9, 1996, 110 Stat. 3329; Pub. L. 106-419, title I, §103(c), Nov. 1, 2000, 114 Stat. 1826; Pub. L. 107-103, title I, §103(a), (d), Dec. 27, 2001, 115 Stat. 979.)

PRIOR PROVISIONS

Prior section 3013 was renumbered section 5113 of this title.

AMENDMENTS

2001—Subsec. (f)(2)(A). Pub. L. 107-103, §103(a), substituted “to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10;” for “, in connection with the Persian Gulf War, to serve on active duty under section 672(a), (d), or (g), 673, 673b, or 688 of title 10;”.

Subsec. (f)(2)(B). Pub. L. 107-103, §103(d), struck out “, in connection with such War,” after “being ordered”.

2000—Subsecs. (a)(2), (b)(1). Pub. L. 106-419 substituted “obligated period of active duty on which such entitlement is based” for “individual’s initial obligated period of active duty”.

1996—Subsec. (d). Pub. L. 104-275 substituted “, 3018B, or 3018C” for “or 3018B”.

1992—Subsec. (d). Pub. L. 102-484 inserted “or 3018B” after “section 3018A” in introductory provisions.

1991—Pub. L. 102-83, §5(a), renumbered section 1413 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3695” for “1795” in two places, “3011” for “1411”, “3011(a)(1)(A)(ii)(I)” for “1411(a)(1)(A)(ii)(I)” in two places, “3011(a)(1)(A)(i)” for “1411(a)(1)(A)(i)”, “3011(a)(1)(B)(ii)(I)” for “1411(a)(1)(B)(ii)(I)” in two places, and “3011(a)(1)(B)(i)” for “1411(a)(1)(B)(i)”.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3695” for “1795”, “3012” for “1412”, “3012(a)(1)(A)” for “1412(a)(1)(A)”, and “3012(a)(1)(B)” for “1412(a)(1)(B)”.

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted “3695” for “1795” wherever appearing, “3018” for “1418”, “3018(b)(3)” for “1418(b)(3)” in two places, and “3018(c)” for “1418(c)”.

Subsec. (d). Pub. L. 102-83, §5(c)(1), substituted “3695” for “1795” and “3018A” for “1418A”.

Subsec. (f). Pub. L. 102-127 added subsec. (f).

1990—Subsecs. (d), (e). Pub. L. 101-510 added subsec. (d) and redesignated former subsec. (d) as (e).

1989—Subsec. (a)(2). Pub. L. 101-237, §423(a)(2)(A), substituted “subsection (d)” for “subsection (c)”.

Pub. L. 101-237, §423(a)(2)(B), substituted “section 1411(a)(1)(A)(ii)(I) or (III) of this title, or” for “section 1411(a)(1)(B)(ii)(I) or (III) of this title, or”.

Subsec. (b). Pub. L. 101-237, §423(a)(2)(A), substituted “subsection (d)” for “subsection (c)”.

Subsec. (c)(1). Pub. L. 101-237, §423(a)(2)(C)(i), inserted reference to par. (3).

Subsec. (c)(3). Pub. L. 101-237, §423(a)(2)(C)(ii), added par. (3).

1988—Subsec. (a)(2). Pub. L. 100-689, §111(a)(4)(A), substituted “Subject to section 1795 of this title and subsection (c) of this section, in the case” for “In the case” and “continuous active duty served by such individual after June 30, 1985, as part of the individual’s initial obligated period of active duty in the case of an individual described in section 1411(a)(1)(B)(ii)(I) or (III) of this title, or in the case of an individual described in section 1411(a)(1)(B)(ii)(I) or (III) of this title, after June 30, 1985” for “active duty served by such individual after the date of the beginning of the period for which the individual’s basic pay is reduced under section 1411(b) of this title, in the case of an individual described in section 1411(a)(1)(A)(ii)(I) of this title, or after June 30, 1985, in the case of an individual described in section 1411(a)(1)(B)(ii)(I) of this title”.

Pub. L. 100-689, §102(b)(2), inserted “or (III)” after “section 1411(a)(1)(A)(ii)(I)” and after “section 1411(a)(1)(B)(ii)(I)”, the first place each appears.

Subsec. (b)(1). Pub. L. 100-689, §111(a)(4)(B), substituted “continuous active duty served by such individual after June 30, 1985, as part of the individual’s initial obligated period of active duty in the case of an individual described in section 1412(a)(1)(A) of this title, or in the case of an individual described in section 1412(a)(1)(B) of this title, after June 30, 1985” for “active duty served by such individual after the date of the beginning of the period for which such individual’s basic pay is reduced under section 1412(c) of this title, in the case of an individual described in section 1412(a)(1)(A), or after June 30, 1985, in the case of an individual described in section 1412(a)(1)(B) of this title”.

Subsecs. (c), (d). Pub. L. 100-689, §103(b)(2), added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Subsec. (a)(2). Pub. L. 99-576, §321(3)(A), inserted “after the date of the beginning of the period for which the individual’s basic pay is reduced under section 1411(b) of this title, in the case of an individual described in section 1411(a)(1)(A)(ii)(I) of this title, or after June 30, 1985, in the case of an individual described in section 1411(a)(1)(B)(ii)(I) of this title”.

Subsec. (b)(1). Pub. L. 99-576, §321(3)(B)(i), inserted “after the date of the beginning of the period for which such individual’s basic pay is reduced under section 1412(c) of this title, in the case of an individual described in section 1412(a)(1)(A), or after June 30, 1985, in the case of an individual described in section 1412(a)(1)(B) of this title”.

Subsec. (b)(2). Pub. L. 99-576, §321(3)(B)(ii), inserted “after the applicable date specified in clause (1) of this subsection” after “Selected Reserve”.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-103, title I, §103(e), Dec. 27, 2001, 115 Stat. 980, provided that: “The amendments made by this section [amending this section and sections 3103, 3105, 3231, 3511, and 3512 of this title] shall take effect as of September 11, 2001.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 102(b)(2) of Pub. L. 100-689 effective July 1, 1985, with respect to individuals discharged or released for medical condition which pre-existed service on active duty or in Selected Reserve and which Administrator determines is not service connected, and effective Oct. 1, 1987, with respect to individuals involuntarily discharged or released for convenience of Government as a result of reduction in force, see section 102(c) of Pub. L. 100-689, set out as a note under section 3011 of this title.

§ 3014. Payment of basic educational assistance

(a) The Secretary shall pay to each individual entitled to basic educational assistance who is pursuing an approved program of education a basic educational assistance allowance to help meet, in part, the expenses of such individual’s subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(b)(1) In the case of an individual entitled to basic educational assistance who is pursuing education or training described in subsection (a) or (c) of section 2007 of title 10, the Secretary shall, at the election of the individual, pay the individual a basic educational assistance allowance to meet all or a portion of the charges of the educational institution for the education or training that are not paid by the Secretary of the military department concerned under such subsection.

(2)(A) The amount of the basic educational assistance allowance payable to an individual

under this subsection for a month shall be the amount of the basic educational assistance allowance to which the individual would be entitled for the month under section 3015 of this title.

(B) The maximum number of months for which an individual may be paid a basic educational assistance allowance under paragraph (1) is 36.

(C) The number of months of entitlement charged under this chapter in the case of an individual who has been paid a basic educational assistance allowance under this subsection shall be equal to the number (including any fraction) determined by dividing the total amount of such educational assistance allowance paid the individual by the full-time monthly institutional rate of educational assistance which such individual would otherwise be paid under subsection (a)(1), (b)(1), (c)(1), (d)(1), or (e)(1) of section 3015 of this title, as the case may be.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2557, §1414; amended Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3014, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 106-398, §1 [[div. A], title XVI, §1602(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-359; Pub. L. 107-14, §7(b)(1), June 5, 2001, 115 Stat. 31.)

AMENDMENTS

2001—Subsec. (b)(2)(A). Pub. L. 107-14, §7(b)(1)(A), struck out “(without regard to subsection (g) of that section) were payment made under that section instead of under this subsection” before period at end.

Subsec. (b)(2)(C). Pub. L. 107-14, §7(b)(1)(B), added subpar. (C).

2000—Pub. L. 106-398 designated existing provisions as subsec. (a) and added subsec. (b).

1991—Pub. L. 102-83 renumbered section 1414 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator”.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-14, §7(b)(3), June 5, 2001, 115 Stat. 32, provided that: “The amendments made by this subsection [amending this section and sections 3015 and 3032 of this title] shall take effect as if enacted on November 1, 2000, immediately after the enactment of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106-419).”

§ 3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry

(a) An individual described in subsection (b) who is entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

(b) An individual described in this subsection is an individual who is—

(1) enrolled in an approved program of education that leads to employment in a high technology occupation in a high technology industry (as determined pursuant to regulations prescribed by the Secretary); and

(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enroll-

ment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

(c)(1) The amount of the accelerated payment of basic educational assistance made to an individual making an election under subsection (a) for a program of education shall be the lesser of—

(A) the amount equal to 60 percent of the established charges for the program of education; or

(B) the aggregate amount of basic educational assistance to which the individual remains entitled under this chapter at the time of the payment.

(2) In this subsection, the term “established charges”, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

(3) The educational institution providing the program of education for which an accelerated payment of basic educational assistance allowance is elected by an individual under subsection (a) shall certify to the Secretary the amount of the established charges for the program of education.

(d) An accelerated payment of basic educational assistance made to an individual under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary receives a certification from the educational institution regarding—

(1) the individual's enrollment in and pursuit of the program of education; and

(2) the amount of the established charges for the program of education.

(e)(1) Except as provided in paragraph (2), for each accelerated payment of basic educational assistance made to an individual under this section, the individual's entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

(2) If the monthly rate of basic educational assistance allowance otherwise payable to an indi-

vidual under section 3015 of this title increases during the enrollment period of a program of education for which an accelerated payment of basic educational assistance is made under this section, the charge to the individual's entitlement to basic educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the matter provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary.

(f) The Secretary may not make an accelerated payment under this section for a program of education to an individual who has received an advance payment under section 3680(d) of this title for the same enrollment period.

(g) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under this section.

(Added Pub. L. 107-103, title I, §104(a)(1), Dec. 27, 2001, 115 Stat. 980; amended Pub. L. 107-330, title III, §308(b)(1), (2)(A), Dec. 6, 2002, 116 Stat. 2827.)

AMENDMENTS

2002—Pub. L. 107-330, §308(b)(2)(A), amended section catchline generally. Prior to amendment, catchline read as follows: "Accelerated payment of basic educational assistance for education leading to employment in high technology industry".

Subsec. (b)(1). Pub. L. 107-330, §308(b)(1), substituted "employment in a high technology occupation in a high technology industry" for "employment in a high technology industry".

EFFECTIVE DATE

Pub. L. 107-103, title I, §104(c), Dec. 27, 2001, 115 Stat. 982, provided that: "The amendments made by this section [enacting this section and amending section 3680 of this title] shall take effect October 1, 2002, and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date."

§ 3015. Amount of basic educational assistance

(a) The amount of payment of educational assistance under this chapter is subject to section 3032 of this title. Except as otherwise provided in this section, in the case of an individual entitled to an educational assistance allowance under this chapter whose obligated period of active duty on which such entitlement is based is three years, a basic educational assistance allowance under this subchapter shall be paid—

(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,321; and

(B) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or

(2) at an appropriately reduced rate, as determined under regulations which the Secretary shall prescribe, for an approved program of education pursued on less than a full-time basis.

(b) In the case of an individual entitled to an educational assistance allowance under section 3011 or 3018 of this title whose obligated period of active duty on which such entitlement is based is two years, a basic educational assistance allowance under this chapter shall (except as provided in the succeeding subsections of this section) be paid—

(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,073; and

(B) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or

(2) at an appropriately reduced rate, as determined under regulations which the Secretary shall prescribe, for an approved program of education pursued on less than a full-time basis.

(c)(1) The amount of basic educational allowance payable under this chapter to an individual referred to in paragraph (2) of this subsection is the amount determined under subsection (a) of this section.

(2) Paragraph (1) of this subsection applies to an individual entitled to an educational assistance allowance under section 3011 of this title—

(A) whose obligated period of active duty on which such entitlement is based is less than three years;

(B) who, beginning on the date of the commencement of such obligated period of active duty, serves a continuous period of active duty of not less than three years; and

(C) who, after the completion of that continuous period of active duty, meets one of the conditions set forth in subsection (a)(3) of such section 3011.

(d)(1) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary of Defense, may, at the time the individual first becomes a member of the Armed Forces, increase the rate of the basic educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsections (a), (b), and (c) of this section as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed \$950 per month.

(2) In the case of an individual who after October 7, 1997, receives an enlistment bonus under section 308a or 308f¹ of title 37, receipt of that bonus does not affect the eligibility of that individual for an increase under paragraph (1) in the rate of the basic educational assistance allowance applicable to that individual, and the Secretary concerned may provide such an increase for that individual (and enter into an agreement with that individual that the United States agrees to make payments pursuant to such an

¹ See References in Text note below.

increase) without regard to any provision of law (enacted before, on, or after the date of the enactment of this paragraph) that limits the authority to make such payments.

(e)(1)(A) Except as provided in subparagraph (B) of this paragraph and subject to paragraph (2) of this subsection, in the case of an individual who on December 31, 1989, was entitled to educational assistance under chapter 34 of this title, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual under such chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.

(B) Notwithstanding subparagraph (A) of this paragraph, in the case of an individual described in that subparagraph who is pursuing a cooperative program on or after October 9, 1996, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual for pursuit of full-time institutional training under chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.

(2) The number of months for which the rate of the basic educational assistance allowance applicable to an individual is increased under paragraph (1) of this subsection may not exceed the number of months of entitlement to educational assistance under chapter 34 of this title that the individual had remaining on December 31, 1989.

(f) In the case of an individual for whom the Secretary of Defense made contributions under section 3222(c) of this title and who is entitled to educational assistance under section 3018A, 3018B, or 3018C of this chapter, the Secretary shall increase the rate of the basic educational assistance allowance applicable to such individual in excess of the rate provided under subsection (a) of this section in a manner consistent with, as determined by the Secretary of Defense, the agreement entered into with such individual pursuant to the rules and regulations issued by the Secretary of Defense under section 3222(c) of this title.

(g) In the case of an individual who has made contributions authorized by section 3011(e) or 3012(f) of this title, effective as of the first day of the enrollment period following receipt of such contributions from such individual by the Secretary concerned, the monthly amount of basic educational assistance allowance applicable to such individual under subsection (a), (b), or (c) shall be the monthly rate otherwise provided for under the applicable subsection increased by—

(1) an amount equal to \$5 for each \$20 contributed by such individual under section 3011(e) or 3012(f) of this title, as the case may be, for an approved program of education pursued on a full-time basis; or

(2) an appropriately reduced amount based on the amount so contributed, as determined

under regulations which the Secretary shall prescribe, for an approved program of education pursued on less than a full-time basis.

(h)(1) With respect to any fiscal year, the Secretary shall provide a percentage increase in the rates payable under subsections (a)(1) and (b)(1) equal to the percentage by which—

(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).

(2) Any increase under paragraph (1) in a rate with respect to a fiscal year after fiscal year 2004 and before fiscal year 2014 shall be rounded down to the next lower whole dollar amount. Any such increase with respect to a fiscal year after fiscal year 2013 shall be rounded to the nearest whole dollar amount.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2557, §1415; amended Pub. L. 100-689, title I, §§103(b)(3), 111(a)(5)(A), Nov. 18, 1988, 102 Stat. 4165, 4171; Pub. L. 101-189, div. A, title VI, §641, Nov. 29, 1989, 103 Stat. 1456; Pub. L. 101-237, title IV, §423(b)(1)(A), (5), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 101-510, div. A, title V, §561(b)(2), Nov. 5, 1990, 104 Stat. 1573; Pub. L. 102-25, title III, §337(a), Apr. 6, 1991, 105 Stat. 90; Pub. L. 102-54, §14(c)(1), June 13, 1991, 105 Stat. 284; renumbered §3015 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §§301(a), (c), 307(a), (b), Oct. 29, 1992, 106 Stat. 4325, 4326, 4328, 4329; Pub. L. 103-66, title XII, §12009(a), (d)(1), (2), Aug. 10, 1993, 107 Stat. 415, 416; Pub. L. 104-275, title I, §106(b)(3), Oct. 9, 1996, 110 Stat. 3329; Pub. L. 105-114, title IV, §401(b), Nov. 21, 1997, 111 Stat. 2293; Pub. L. 105-178, title VIII, §8203(a)(1)-(3), June 9, 1998, 112 Stat. 493; Pub. L. 105-261, div. A, title V, §565(a), title VI, §656(a), Oct. 17, 1998, 112 Stat. 2029, 2053; Pub. L. 106-398, §1 [[div. A], title XVI, §1602(b)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A-359; Pub. L. 106-419, title I, §§101(a), 103(d), 105(b), Nov. 1, 2000, 114 Stat. 1824, 1826, 1829; Pub. L. 107-14, §7(b)(2)(A), (c)(3), June 5, 2001, 115 Stat. 31, 32; Pub. L. 107-103, title I, §101(a), Dec. 27, 2001, 115 Stat. 977; Pub. L. 108-183, title III, §304(a), Dec. 16, 2003, 117 Stat. 2659; Pub. L. 110-252, title V, §5004(a)-(c), June 30, 2008, 122 Stat. 2379.)

REFERENCES IN TEXT

Sections 308a and 308f of title 37, referred to in subsec. (d)(2), were repealed by Pub. L. 106-398, §1 [[div. A], title VI, §624(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-153.

The date of the enactment of this paragraph, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 105-261 which was approved Oct. 17, 1998.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-252, §5004(a), added subpar. (A), redesignated subpar. (D) as (B), and struck out former subpars. (A) to (C) which read as follows:

“(A) for months beginning on or after January 1, 2002, \$800;

“(B) for months occurring during fiscal year 2003, \$900;

“(C) for months occurring during fiscal year 2004, \$985; and”.

Subsec. (b)(1). Pub. L. 110-252, § 5004(b), added subpar. (A), redesignated subpar. (D) as (B), and struck out former subpars. (A) to (C) which read as follows:

“(A) for months beginning on or after January 1, 2002, \$650;

“(B) for months occurring during fiscal year 2003, \$732;

“(C) for months occurring during fiscal year 2004, \$800; and”.

Subsec. (h)(1). Pub. L. 110-252, § 5004(c), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

“(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).”

2003—Subsec. (h). Pub. L. 108-183, § 304(a)(1), (2), (5), inserted “(1)” after “(h)”, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (h)(1). Pub. L. 108-183, § 304(a)(3), struck out “(rounded to the nearest dollar)” after “increase” in introductory provisions.

Subsec. (h)(1)(B). Pub. L. 108-183, § 304(a)(4), substituted “subparagraph (A)” for “paragraph (1)”.

2001—Subsec. (a)(1). Pub. L. 107-103, § 101(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “at the monthly rate of \$650 (as increased from time to time under subsection (h)) for an approved program of education pursued on a full-time basis; or”.

Pub. L. 107-14, § 7(b)(2)(A)(i), inserted “subsection (h)” after “from time to time under”.

Subsec. (b)(1). Pub. L. 107-103, § 101(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “at the monthly rate of \$528 (as increased from time to time under subsection (h)) for an approved program of education pursued on a full-time basis; or”.

Pub. L. 107-14, § 7(b)(2)(A)(i), inserted “subsection (h)” after “from time to time under”.

Subsec. (g). Pub. L. 107-14, § 7(c)(3)(A), in introductory provisions, inserted “effective as of the first day of the enrollment period following receipt of such contributions from such individual by the Secretary concerned,” after “by section 3011(e) or 3012(f) of this title.”.

Subsec. (g)(1). Pub. L. 107-14, § 7(c)(3)(B), substituted “amount equal to \$5 for each \$20 contributed” for “amount equal to \$1 for each \$4 contributed” and inserted “of this title” after “section 3011(e) or 3012(f)”.

Subsec. (h). Pub. L. 107-14, § 7(b)(2)(A)(ii), struck out subsec. (h) which read as follows: “In the case of an individual who has been paid a basic educational assistance allowance under section 3014(b) of this title, the rate of the basic educational assistance allowance applicable to the individual under this section shall be the rate otherwise applicable to the individual under this section reduced by an amount equal to—

“(1) the aggregate amount of such allowances paid the individual under such section 3014(b); divided by “(2) 36.”

2000—Subsec. (a). Pub. L. 106-419, § 103(d)(1), inserted “in the case of an individual entitled to an educational assistance allowance under this chapter whose obligated period of active duty on which such entitlement is based is three years,” before “a basic educational assistance allowance” in introductory provisions.

Subsec. (a)(1). Pub. L. 106-419, § 105(b)(1), which directed substitution of “subsection (h)” for “subsection (g)” wherever appearing, could not be executed because the words “subsection (g)” did not appear subsequent to the amendment by Pub. L. 106-398, § 1 [[div. A], title XVI, § 1602(b)(3)(A)]. See below.

Pub. L. 106-419, § 101(a)(1), substituted “\$650” for “\$528”.

Pub. L. 106-398, § 1 [[div. A], title XVI, § 1602(b)(3)(A)], struck out “subsection (g)” after “time under”.

Subsec. (b). Pub. L. 106-419, § 103(d)(2), substituted “whose obligated period of active duty on which such entitlement is based is two years,” for “whose initial obligated period of active duty is two years,” in introductory provisions.

Subsec. (b)(1). Pub. L. 106-419, § 105(b)(1), which directed substitution of “subsection (h)” for “subsection (g)” wherever appearing, could not be executed because the words “subsection (g)” did not appear subsequent to the amendment by Pub. L. 106-398, § 1 [[div. A], title XVI, § 1602(b)(3)(A)]. See below.

Pub. L. 106-419, § 101(a)(2), substituted “\$528” for “\$429”.

Pub. L. 106-398, § 1 [[div. A], title XVI, § 1602(b)(3)(A)], struck out “subsection (g)” after “time under”.

Subsec. (c)(2)(A), (B). Pub. L. 106-419, § 103(d)(3), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) whose initial obligated period of active duty is less than three years;

“(B) who, beginning on the date of the commencement of the person’s initial obligated period of such duty, serves a continuous period of active duty of not less than three years; and”.

Subsec. (g). Pub. L. 106-419, § 105(b)(3), added subsec. (g). Former subsec. (g) relating to an individual who has been paid a basic educational assistance allowance under section 3014(b) of this title redesignated (h).

Pub. L. 106-398, § 1 [[div. A], title XVI, § 1602(b)(3)(C)], added subsec. (g). Former subsec. (g) relating to a percentage increase in the rates payable under subsections (a)(1) and (b)(1) redesignated (h).

Subsec. (h). Pub. L. 106-419, § 105(b)(2), redesignated subsec. (g) relating to an individual who has been paid a basic educational assistance allowance under section 3014(b) of this title as (h).

Pub. L. 106-398, § 1 [[div. A], title XVI, § 1602(b)(3)(B)], redesignated subsec. (g) relating to a percentage increase in the rates payable under subsections (a)(1) and (b)(1) as (h).

1998—Subsec. (a). Pub. L. 105-178, § 8203(a)(3)(A), struck out “subsections (b), (c), (d), (e), (f), and (g) of” before “this section” in introductory provisions.

Subsec. (a)(1). Pub. L. 105-178, § 8203(a)(1)(A), substituted “\$528 (as increased from time to time under subsection (g))” for “\$400”.

Subsec. (b). Pub. L. 105-178, § 8203(a)(3)(B), in introductory provisions, substituted “In” for “Except as provided in subsections (c), (d), (e), (f), and (g), in” and inserted “(except as provided in the succeeding subsections of this section)” after “under this chapter shall”.

Subsec. (b)(1). Pub. L. 105-178, § 8203(a)(1)(B), substituted “\$429 (as increased from time to time under subsection (g))” for “\$325”.

Subsec. (d). Pub. L. 105-261, § 656(a), designated existing provisions as par. (1) and added par. (2).

Pub. L. 105-261, § 565(a), inserted “, at the time the individual first becomes a member of the Armed Forces,” after “Secretary of Defense, may” and substituted “\$950 per month” for “\$400 per month, in the case of an individual who first became a member of the Armed Forces before November 29, 1989, or \$700 per month, in the case of an individual who first became a member of the Armed Forces on or after that date.”

Subsec. (g). Pub. L. 105-178, § 8203(a)(2), substituted “, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subsections (a)(1) and (b)(1)” for “beginning on or after October 1, 1994, the Secretary shall continue to pay, in lieu of the rates payable under subsection (a)(1) or (b)(1) of this section, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates”.

1997—Subsec. (e)(1)(A). Pub. L. 105-114, § 401(b)(1), substituted “(1)(A) Except as provided in subparagraph (B) of this paragraph and subject to paragraph (2)” for “(1) Subject to paragraph (2)”.

Subsec. (e)(1)(B). Pub. L. 105-114, §401(b)(2), added subpar. (B).

1996—Subsec. (f). Pub. L. 104-275 inserted “, 3018B, or 3018C” after “section 3018A”.

1993—Subsecs. (c) to (g). Pub. L. 103-66, §12009(d)(1), (2), made technical amendments to directory language of Pub. L. 102-568, §§301(c), 307(a). See 1992 Amendment note below.

Subsec. (g). Pub. L. 103-66, §12009(a), struck out par. (1) and par. (2) designation, redesignated subpars. (A) and (B) of former par. (2) as pars. (1) and (2), respectively, and substituted “paragraph (1)” for “subparagraph (A)” in par. (2). Prior to amendment, par. (1) read as follows: “With respect to the fiscal year beginning on October 1, 1993, the Secretary shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section equal to the percentage by which the Consumer Price Index (all items, United States city average, published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1993, exceeds such Consumer Price Index for the 12-month period ending June 30, 1992.”

1992—Subsec. (a). Pub. L. 102-568, §307(b)(1), substituted “(f), and (g)” for “and (f)” in introductory provisions.

Subsec. (a)(1). Pub. L. 102-568, §301(a)(1), substituted “\$400” for “\$300”.

Subsec. (b). Pub. L. 102-568, §307(b)(2), substituted “(f), and (g)” for “and (f)” in introductory provisions.

Subsec. (b)(1). Pub. L. 102-568, §301(a)(2), substituted “\$325” for “\$250”.

Subsec. (c). Pub. L. 102-568, §307(a)(3), as amended by Pub. L. 103-66, §12009(d)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102-568, §307(a)(1), (2), as amended by Pub. L. 103-66, §12009(d)(2), redesignated subsec. (c) as (d) and substituted “(a), (b), and (c)” for “(a) and (b)”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102-568, §307(a)(1), as amended by Pub. L. 103-66, §12009(d)(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 102-568, §307(a)(1), as amended by Pub. L. 103-66, §12009(d)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 102-568, §301(c), as amended by Pub. L. 103-66, §12009(d)(1), redesignated par. (2) as (1), substituted “shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section” for “may continue to pay, in lieu of the rates payable under subsection (a)(1) or (b)(1) of this section, the monthly rates payable under paragraph (1) of this subsection and may provide a percentage increase in such rates”, redesignated par. (3) as (2), substituted “Secretary shall” for “Secretary may” and “and shall” for “and may” in introductory provisions, and struck out former par. (1) which read as follows: “During the period beginning on October 1, 1991, and ending on September 30, 1993, the monthly rates payable under subsection (a)(1) or (b)(1) of this section shall be \$350 and \$275, respectively.”

Subsec. (g). Pub. L. 102-568, §307(a)(1), as amended by Pub. L. 103-66, §12009(d)(2), redesignated subsec. (f) as (g).

1991—Pub. L. 102-83, §5(a), renumbered section 1415 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3032” for “1432” in introductory provisions.

Pub. L. 102-25, §337(a)(1), substituted “, (c), (d), (e), and (f)” for “and (c)” in introductory provisions.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3011 or 3018” for “1411 or 1418” in introductory provisions.

Pub. L. 102-25, §337(a)(2), substituted “Except as provided in subsections (c), (d), (e), and (f), in” for “In” in introductory provisions.

Subsec. (c). Pub. L. 102-54 substituted “November 29, 1989” for “the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991”.

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted “3222(c)” for “1622(c)” in two places and “3018A” for “1418A”.

Subsec. (f). Pub. L. 102-25, §337(a)(3), added subsec. (f). 1990—Subsec. (e). Pub. L. 101-510 added subsec. (e). 1989—Subsecs. (a)(2), (b)(2). Pub. L. 101-237, §423(b)(1)(A), substituted “Secretary” for “Administrator”.

Subsec. (c). Pub. L. 101-237, §423(b)(5), inserted “of Defense” after “prescribed by the Secretary” and after “of this section as the Secretary”.

Pub. L. 101-189 inserted “, in the case of an individual who first became a member of the Armed Forces before the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991, or \$700 per month, in the case of an individual who first became a member of the Armed Forces on or after that date” before period at end.

1988—Subsec. (a). Pub. L. 100-689, §111(a)(5)(A), substituted “The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except” for “Subject to section 1432 of this title and except”.

Subsec. (b). Pub. L. 100-689, §103(b)(3), inserted reference to section 1418 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-252, title V, §5004(d), June 30, 2008, 122 Stat. 2379, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall take effect on August 1, 2008.

“(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 7(b)(2)(A) of Pub. L. 107-14 effective as if enacted on Nov. 1, 2000, immediately after the enactment of Pub. L. 106-419, see section 7(b)(3) of Pub. L. 107-14, set out as a note under section 3014 of this title.

Amendment by section 7(c)(3) of Pub. L. 107-14 effective as if included in the enactment of section 105 of Pub. L. 106-419, see section 7(c)(4) of Pub. L. 107-14, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title I, §101(b), Nov. 1, 2000, 114 Stat. 1824, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on November 1, 2000, and shall apply with respect to educational assistance allowances paid under chapter 30 of title 38, United States Code, for months after October 2000.”

Amendment by section 105(b) of Pub. L. 106-419 effective May 1, 2001, see section 105(c) of Pub. L. 106-419, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105-261, div. A, title V, §565(b), Oct. 17, 1998, 112 Stat. 2029, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1998, and shall apply with respect to individuals who first become members of the Armed Forces on or after that date.”

Pub. L. 105-178, title VIII, §8203(a)(4), June 9, 1998, 112 Stat. 493, provided that: “The amendments made by this subsection [amending this section] shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998. However, no adjustment in rates of educational assistance shall be made under subsection (g) [now (h)] of section 3015 of title 38, United States Code, as amended by paragraph (2), for fiscal year 1999.”

EFFECTIVE DATE OF 1993 AMENDMENT

Section 12009(d)(3) of Pub. L. 103-66 provided that: “The amendments made by paragraphs (1) and (2)

[amending this section] shall apply as if included in the enactment of Public Law 102-568.”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 301(a) and (c) of Pub. L. 102-568 effective Apr. 1, 1993, but not to be construed to change account from which payment is made for certain portion of payments made under this chapter or chapter 106 of Title 10, Armed Services, see section 301(e) of Pub. L. 102-568, set out as a note under section 16131 of Title 10.

Section 307(c) of Pub. L. 102-568 provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after September 1, 1993.”

ADJUSTMENT IN RATES OF EDUCATIONAL ASSISTANCE

Pub. L. 107-103, title I, §101(b), Dec. 27, 2001, 115 Stat. 978, provided that: “No adjustment in rates of educational assistance shall be made under section 3015(h) of title 38, United States Code, for fiscal years 2003 and 2004.”

Fiscal year 1995 cost-of-living adjustments in rates of educational assistance payable under this chapter to be percentage equal to 50 percent of percentage by which such assistance would be increased under subsec. (g) [now (h)] of this section but for section 12009 of Pub. L. 103-66, see section 12009(c) of Pub. L. 103-66, formerly set out as a note under section 16131 of Title 10, Armed Forces.

§ 3016. Inservice enrollment in a program of education

(a) A member of the Armed Forces who—

(1) first becomes a member or first enters on active duty as a member of the Armed Forces after June 30, 1985, and does not make an election under section 3011(c)(1) or section 3012(d)(1);

(2) completes at least two years of service on active duty after such date;

(3) after such service, continues on active duty or in the Selected Reserve without a break in service (except as described in section 3012(b)(2) of this title); and

(4) but for section 3011(a)(1)(A)(i)(I)¹ or 3012(a)(1)(A)(ii) of this title would be eligible for basic educational assistance,

may receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 3011(a)(1)(A)(i)(I)¹ or 3012(a)(1)(A)(ii) of this title.

(b) A member of the Armed Forces who—

(1) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title;

(2) after June 30, 1985, has served the two years required by section 3012(a)(1)(B)(i); and

(3) but for section 3012(a)(1)(B)(ii) of this title would be eligible for basic educational assistance,

may, after December 31, 1989, receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 3012(a)(1)(B)(ii) of this title.

(c) A member of the Armed Forces who—

(1) completes at least two years of service on active duty after June 30, 1985;

(2) after such service continues on active duty without a break in service; and

(3) but for section 3018(b)(3)(A) of this title would be entitled to basic educational assistance under this chapter,

may receive such assistance for enrollment in an approved program of education while continuing to perform the service described in section 3018(b)(2) of this title.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2558, §1416; amended Pub. L. 99-576, title III, §321(4), Oct. 28, 1986, 100 Stat. 3278; Pub. L. 100-689, title I, §103(b)(4), Nov. 18, 1988, 102 Stat. 4165; renumbered §3016 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Section 3011(a)(1)(A)(i), referred to in subsec. (a), was amended generally by Pub. L. 106-419, title I, §103(a)(1)(A), Nov. 1, 2000, 114 Stat. 1825, and, as so amended, does not contain a subcl. (I).

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1416 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3011(c)(1)” for “1411(c)(1)”, “3012(d)(1)” for “1412(d)(1)”, “3012(b)(2)” for “1412(b)(2)”, and “3011(a)(1)(A)(i)(I) or 3012(a)(1)(A)(ii)” for “1411(a)(1)(A)(i)(I) or 1412(a)(1)(A)(ii)” in two places.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3012(a)(1)(B)(i)” for “1412(a)(1)(B)(i)” and “3012(a)(1)(B)(ii)” for “1412(a)(1)(B)(ii)” in two places.

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted “3018(b)(3)(A)” for “1418(b)(3)(A)” and “3018(b)(2)” for “1418(b)(2)”.

1988—Subsec. (c). Pub. L. 100-689 added subsec. (c).

1986—Pub. L. 99-576 amended section generally. Prior to amendment, section read as follows: “A member of the Armed Forces who has completed at least two years of service on active duty after June 30, 1985, has continued on active duty or in the Selected Reserve without a break in service (except as described in section 1412(b)(2) of this title), and who but for section 1411(a)(1) or 1412(a)(1) of this title would be eligible for basic educational assistance may receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1411(a)(1) or 1412(a)(1) of this title.”

§ 3017. Death benefit

(a)(1) In the event of the service-connected death of any individual—

(A) who—

(i) is entitled to basic educational assistance under this chapter; or

(ii) is on active duty in the Armed Forces and but for clause (1)(A)(i) or clause (2) of section 3011(a) or clause (1)(A)(i) or (ii) or clause (2) of section 3012(a) of this title would be eligible for such basic educational assistance; and

(B) who dies while on active duty or within one year after discharge or release from active duty,

the Secretary shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

¹ See References in Text note below.

(2)(A) The payment referred to in paragraph (1) of this subsection shall be made to the person or persons first listed below who is surviving on the date of such individual's death:

(i) The beneficiary or beneficiaries designated by such individual under the individual's Servicemembers' Group Life Insurance policy.

(ii) The surviving spouse of the individual.

(iii) The surviving child or children of the individual, in equal shares.

(iv) The surviving parent or parents of the individual, in equal shares.

(B) If no such person survives such individual, no payment shall be made under this section.

(b) The amount of any payment made under this section shall be equal to—

(1) the total of—

(A) the amount reduced from the individual's basic pay under section 3011(b), 3012(c), 3018(c), 3018A(b), 3018B(b), 3018C(b), or 3018C(e) of this title;

(B) the amount reduced from the individual's retired pay under section 3018C(e) of this title;

(C) the amount collected from the individual by the Secretary under section 3018B(b), 3018C(b), or 3018C(e) of this title; and

(D) the amount of any contributions made by the individual under section 3011(e) or 3012(f) of this title, less

(2) the total of—

(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

(B) the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 3035(b)(1), it shall be considered to be an entitlement earned under this chapter.

(Added Pub. L. 100-689, title I, §101(a), Nov. 18, 1988, 102 Stat. 4161, §1417; amended Pub. L. 101-237, title IV, §423(a)(3), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2091, 2092; renumbered §3017 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §308, Oct. 29, 1992, 106 Stat. 4329; Pub. L. 104-275, title IV, §405(c)(2), Oct. 9, 1996, 110 Stat. 3340; Pub. L. 106-419, title I, §102(a)(2), Nov. 1, 2000, 114 Stat. 1824; Pub. L. 107-14, §7(d)(1), June 5, 2001, 115 Stat. 33; Pub. L. 109-233, title V, §503(4), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Subsec. (b)(1)(D). Pub. L. 109-233 substituted “3011(e)” for “3011(c)”.

2001—Subsec. (b)(1). Pub. L. 107-14 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the amount reduced from the individual's pay under section 3011(b), 3012(c), or 3018(c) of this title, less”.

2000—Subsec. (a)(1)(A)(ii). Pub. L. 106-419 substituted “clause (2) of section 3011(a)” for “clause (2)(A) of section 3011(a)”.

1996—Subsec. (a)(2)(A)(i). Pub. L. 104-275 substituted “Servicemembers' Group” for “Servicemen's Group”.

1992—Subsec. (a)(1)(B). Pub. L. 102-568 inserted before comma “or within one year after discharge or release from active duty”.

1991—Pub. L. 102-83, §5(a), renumbered section 1417 of this title as this section.

Subsec. (a)(1)(A)(ii). Pub. L. 102-83, §5(c)(1), substituted “3011(a)” for “1411(a)” and “3012(a)” for “1412(a)”.

Subsec. (b)(1). Pub. L. 102-83, §5(c)(1), substituted “3011(b), 3012(c), or 3018(c)” for “1411(b), 1412(c), or 1418(c)”.

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted “3035(b)(1)” for “1435(b)(1)”.

1989—Subsec. (a)(1). Pub. L. 101-237, §423(b)(1)(A), substituted “Secretary” for “Administrator”.

Subsec. (a)(1)(A)(ii). Pub. L. 101-237, §423(a)(3), substituted “but for clause (1)(A)(i) or clause (2)(A) of section 1411(a) or clause (1)(A)(i) or (ii) or clause (2) of section 1412(a) of this title” for “but for section 1411(a)(1)(A)(i) or division (i) or (ii) of section 1412(a)(1)(A) of this title”.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-14, §7(d)(2), June 5, 2001, 115 Stat. 33, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as of May 1, 2001.”

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 date of the enactment of this section, whichever is later.”.

Subsec. (d)(3). Pub. L. 103-446, §1201(d)(4), substituted “section 3015(f)” for “section 3015(e)”.

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

Subsec. (a)(1). Pub. L. 102-25 substituted “section 1141 of title 10” for “section 1142 of title 10”.

Subsec. (a)(3). Pub. L. 102-83, §5(c)(1), substituted “3011(c)(1) or 3012(d)(1)” for “1411(c)(1) or 1412(d)(1)”.

Subsec. (d)(2), (3). Pub. L. 102-83, §5(c)(1), substituted “3223(b)” for “1623(b)”, “3222(a)” for “1622(a)”, and “3222(c)” for “1622(c)” in par. (2) and “3222” for “1622” and “3015(e)” for “1415(e)” in par. (3).

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.

§ 3018B. Opportunity for certain persons to enroll

(a) Notwithstanding any other provision of law—

(1) the Secretary of Defense shall, subject to the availability of appropriations, allow an individual who—

(A) is separated from the active military, naval, or air service with an honorable discharge and receives voluntary separation incentives under section 1174a or 1175 of title 10;

(B) 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;

(C) 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 elec-

tion 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 service in the Navy;

(D) 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 subparagraph (C) of this paragraph, before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

(E) before such separation elects to receive assistance under this section pursuant to procedures referred to in subparagraph (C) of this paragraph; or

(2) the Secretary, in consultation with the Secretary of Defense, shall, subject to the availability of appropriations, allow an individual who—

(A) separated before October 23, 1992, from the active military, naval, or air service with an honorable discharge and received or is receiving voluntary separation incentives under section 1174a or 1175 of title 10;

(B) 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;

(C) 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 making an election under this paragraph pursuant to procedures which the Secretary shall provide, in consultation with the Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as service in the Navy, which shall be similar to the regulations prescribed under paragraph (1)(C) of this subsection;

(D) 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 subparagraph (C) of this paragraph, before making an election under this paragraph to receive benefits under this section in lieu of benefits under such chapter 32; and

(E) before October 23, 1993, elects to receive assistance under this section pursuant to procedures referred to in subparagraph (C) of this paragraph,

to elect to become entitled to basic education assistance under this chapter.

(b)(1) The basic pay or voluntary separation incentives of an individual who makes an election under subsection (a)(1) to become entitled to basic education assistance under this chapter shall be reduced by \$1,200.

(2) The Secretary shall collect \$1,200 from an individual who makes an election under subsection (a)(2) to become entitled to basic education assistance under this chapter, which shall be paid into the Treasury of the United States as miscellaneous receipts.

(c) A withdrawal referred to in subsection (a)(1)(C) or (a)(2)(C) of this section is irrevocable.

(d)(1) Except as provided in paragraph (3) of this subsection, 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)(1)(D) or (a)(2)(D) of this section 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) of this subsection shall remain in such account to make payments of benefits to such individual under section 3015(f) of this title.

(Added Pub. L. 102-484, div. D, title XLIV, §4404(a), Oct. 23, 1992, 106 Stat. 2704; amended Pub. L. 103-446, title XII, §1201(d)(5), (e)(11), (f)(3), Nov. 2, 1994, 108 Stat. 4684, 4685, 4687; Pub. L. 105-368, title II, §203(a), title X, §1005(b)(6), Nov. 11, 1998, 112 Stat. 3326, 3365; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

2002—Subsec. (a)(1)(C), (2)(C). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1998—Subsec. (a)(1)(B), (2)(B). Pub. L. 105-368, §203(a), substituted “successfully completed (or otherwise received academic credit for)” for “successfully completed”.

Subsec. (a)(2)(E). Pub. L. 105-368, §1005(b)(6), which directed the substitution of “before October 23, 1993,” for “before the one-year period beginning on the date of the enactment of this section,” was executed by making the substitution for text which did not include the word “the” before the word “enactment”, to reflect the probable intent of Congress.

1994—Subsec. (a)(2)(A). Pub. L. 103-446, §1201(f)(3), substituted “October 23, 1992,” for “the date of enactment of this section”.

Subsec. (d)(1). Pub. L. 103-446, §1201(e)(11)(A), substituted “(a)(2)(D) of this section” for “(a)(2)(D) of this subsection”.

Subsec. (d)(3). Pub. L. 103-446, §1201(d)(5), (e)(11)(B), substituted “such account” for “such Account” and “section 3015(f) of this title” for “section 3015(e) of this chapter”.

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 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

amount of assistance paid to the individual under this section in excess of \$600 that is equal to the amount of the monthly educational assistance allowance which the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

(Added Pub. L. 100-689, title I, §107(a)(1), Nov. 18, 1988, 102 Stat. 4167, §1419; renumbered §3019 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1419 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3492” for “1692”.

§ 3020. Authority to transfer unused education benefits to family members for career service members

(a) IN GENERAL.—Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit an individual described in subsection (b) who is entitled to basic educational assistance under this subchapter to elect to transfer to one or more of the dependents specified in subsection (c) the unused portion of entitlement to such assistance, subject to the limitation under subsection (d).

(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the Armed Forces—

(1) who, while serving on active duty or as a member of the Selected Reserve at the time of the approval by the Secretary concerned of the member's request to transfer entitlement to basic educational assistance under this section, has completed six years of service in the Armed Forces and enters into an agreement to serve at least four more years as a member of the Armed Forces; or

(2) as determined in regulations pursuant to subsection (k).

(c) ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to basic educational assistance under this section may transfer the individual's entitlement as follows:

(1) To the individual's spouse.

(2) To one or more of the individual's children.

(3) To a combination of the individuals referred to in paragraphs (1) and (2).

(d) LIMITATION ON MONTHS OF TRANSFER.—(1) An individual approved to transfer an entitlement to basic educational assistance under this section may transfer any unused entitlement to one or more of the dependents specified in subsection (c).

(2) The total number of months of entitlement transferred by an individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

(e) DESIGNATION OF TRANSFEREE.—An individual transferring an entitlement to basic educational assistance under this section shall—

(1) designate the dependent or dependents to whom such entitlement is being transferred;

(2) designate the number of months of such entitlement to be transferred to each such dependent; and

(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 3031 of this title, an individual approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement at any time after the approval of the individual's request to transfer such entitlement only while the individual is a member of the Armed Forces when the transfer is executed.

(2)(A) An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred as long as the individual is serving on active duty or as a member of the Selected Reserve.

(B) The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

(1) in the case of entitlement transferred to a spouse, the completion by the individual making the transfer of six years of service in the Armed Forces; or

(2) in the case of entitlement transferred to a child, both—

(A) the completion by the individual making the transfer of 10 years of service in the Armed Forces; and

(B) either—

(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

(ii) the attainment by the child of 18 years of age.

(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

(2) Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this subchapter in the same manner as the individual from whom the entitlement was transferred.

(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred

under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

(B) The monthly rate of assistance payable to a dependent under subparagraph (A) shall be subject to the provisions of section 3032 of this title, except that the provisions of subsection (a)(1) of that section shall not apply even if the individual making the transfer to the dependent under this section is on active duty during all or any part of enrollment period of the dependent in which such entitlement is used.

(4) The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(5) Notwithstanding section 3031 of this title, a child to whom entitlement is transferred under this section may use the benefit without regard to the 10-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.

(6) The administrative provisions of this chapter (including the provisions set forth in section 3034(a)(1) of this title) shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible veteran for purposes of such provisions.

(7) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(i) OVERPAYMENT.—(1) In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

(2) Except as provided in paragraph (3), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(3) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of basic educational assistance under paragraph (1).

(3) Paragraph (2) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

(A) by reason of the death of the individual;

or

(B) for a reason referred to in section 3011(a)(1)(A)(ii)(I) of this title.

(j) APPROVALS OF TRANSFER SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The Secretary concerned may approve transfers of entitlement to basic educational assistance under this section in a fiscal year only to the extent that appropriations for military personnel are available in that fiscal year for purposes of making deposits in the Department of Defense Education Benefits Fund under section 2006 of title 10 in that fiscal year to cover the present value of future

benefits payable from the Fund for the Department of Defense portion of payments of basic educational assistance attributable to increased usage of benefits as a result of such transfers of entitlement in that fiscal year.

(k) REGULATIONS.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section. Such regulations shall specify—

(1) the manner of authorizing the military departments to offer transfer of entitlements under this section;

(2) the eligibility criteria in accordance with subsection (b);

(3) the limitations on the amount of entitlement eligible to be transferred; and

(4) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

(l) SECRETARY CONCERNED DEFINED.—Notwithstanding section 101(25) of this title, in this section, the term “Secretary concerned” means—

(1) the Secretary of the Army with respect to matters concerning the Army;

(2) the Secretary of the Navy with respect to matters concerning the Navy or the Marine Corps;

(3) the Secretary of the Air Force with respect to matters concerning the Air Force; and

(4) the Secretary of Defense with respect to matters concerning the Coast Guard, or the Secretary of Homeland Security when it is not operating as a service in the Navy.

(Added Pub. L. 107–107, div. A, title VI, § 654(a)(1), Dec. 28, 2001, 115 Stat. 1153; amended Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107–314, div. A, title VI, § 643(a), Dec. 2, 2002, 116 Stat. 2577; Pub. L. 110–252, title V, § 5006(a), June 30, 2008, 122 Stat. 2380; Pub. L. 112–81, div. A, title X, § 1063(b), Dec. 31, 2011, 125 Stat. 1586.)

PRIOR PROVISIONS

A prior section 3020 was renumbered section 5120 of this title.

AMENDMENTS

2011—Subsecs. (l), (m). Pub. L. 112–81 redesignated subsec. (m) as (l) and struck out former subsec. (l) which required the Secretary of Defense to submit an annual report on approved transfers of entitlement to basic educational assistance.

2008—Pub. L. 110–252, § 5006(a)(1), substituted “Authority to transfer unused education benefits to family members for career service members” for “Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills” in section catchline.

Subsecs. (a), (b). Pub. L. 110–252, § 5006(a)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which provided for transfers of entitlement to basic educational assistance from eligible members of the Armed Forces to certain dependents and described eligibility criteria for such members, respectively.

Subsec. (d). Pub. L. 110–252, § 5006(a)(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “The total number of months of entitlement transferred by an individual under this section may not exceed 18 months.”

Subsec. (f)(1). Pub. L. 110–252, § 5006(a)(3), substituted “only while” for “without regard to whether”.

Subsec. (f)(2)(A). Pub. L. 110–252, § 5006(a)(4), inserted “as long as the individual is serving on active duty or

as a member of the Selected Reserve" after "so transferred".

Subsec. (f)(3). Pub. L. 110-252, §5006(a)(5), added par. (3).

Subsec. (h)(5). Pub. L. 110-252, §5006(a)(6), inserted "may use the benefit without regard to the 10-year delimiting date, but" after "under this section".

Subsec. (k). Pub. L. 110-252, §5006(a)(7), added subsec. (k) and struck out former subsec. (k). Prior to amendment, text read as follows: "The Secretary of Defense shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2) and shall specify the manner of the applicability of the administrative provisions referred to in subsection (h)(5) to a dependent to whom entitlement is transferred under this section."

2002—Subsec. (h)(2). Pub. L. 107-314, §643(a)(1), substituted "paragraphs (5) and (6)" for "paragraphs (4) and (5)" and struck out "and at the same rate" after "in the same manner".

Subsec. (h)(3) to (7). Pub. L. 107-314, §643(a)(2), (3), added par. (3) and redesignated former pars. (3) to (6) as (4) to (7), respectively.

Subsec. (m)(4). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107-314, div. A, title VI, §643(c)(1), Dec. 2, 2002, 116 Stat. 2578, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as if included in the enactment of section 3020 of title 38, United States Code, by section 654(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1153)."

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.

PLAN FOR IMPLEMENTATION

Pub. L. 107-107, div. A, title VI, §654(c), Dec. 28, 2001, 115 Stat. 1157, provided that: "Not later than June 30, 2002, the Secretary of Defense shall submit to Congress a report describing the manner in which the Secretaries of the military departments and the Secretary of Transportation propose to exercise the authority granted by section 3020 of title 38, United States Code, as added by subsection (a). The report shall include the regulations prescribed under subsection (k) of that section for purposes of the exercise of the authority."

SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

§ 3021. Supplemental educational assistance for additional service

(a) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary of Defense, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 3011 or 3018 of this title who—

(1) serves five or more consecutive years of active duty in the Armed Forces after the years of active duty counted under section 3011(a)(1) of this title without a break in such service; and

(2) after completion of the service described in clause (1) of this subsection—

(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 without a break in service; 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.

(b) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary of Defense, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 3012 or 3018 of this title who—

(1) serves two or more consecutive years of active duty in the Armed Forces after the years of active duty counted under section 3012(a)(1) of this title and four or more consecutive years of duty in the Selected Reserve after the years of duty in the Selected Reserve counted under such section without a break in service; and

(2) after completion of the service described in clause (1) of this subsection—

(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; or

(B) continues on active duty or in the Selected Reserve.

(c) Continuity of service of a member in the Selected Reserve for purposes of subsection (b)(1) of this section shall not be considered to be broken—

(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of the member's Armed Force that the member is eligible to join or that has a vacancy; or

(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

(d) A period of active duty or duty in the Selected Reserve that occurs before the period of duty by which the individual concerned qualifies for basic educational assistance may not be counted for purposes of this section.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2558, §1421; amended Pub. L. 99-576, title III, §321(5), (6), Oct. 28, 1986, 100 Stat. 3278; Pub. L. 100-689, title I, §103(b)(5), Nov. 18, 1988, 102 Stat. 4166; Pub. L. 101-237, title IV, §423(b)(4)(B), Dec. 18, 1989, 103 Stat. 2092; renumbered §3021 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3021 was renumbered section 5121 of this title.

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1421 of this title as this section.