

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted "3011 or 3018" for "1411 or 1418" in introductory provisions and "3011(a)(1)" for "1411(a)(1)" in par. (1).

Subsec. (b). Pub. L. 102-83, § 5(c)(1), substituted "3012 or 3018" for "1412 or 1418" in introductory provisions and "3012(a)(1)" for "1412(a)(1)" in par. (1).

1989—Subsecs. (a), (b). Pub. L. 101-237 inserted "of Defense" after second reference to "Secretary".

1988—Subsecs. (a), (b). Pub. L. 100-689 inserted reference to section 1418 of this title.

1986—Subsec. (a)(1). Pub. L. 99-576, § 321(5), substituted "after" for "in addition to".

Subsec. (b)(1). Pub. L. 99-576, § 321(5), substituted "after" for "in addition to" in two places.

Subsec. (c)(1). Pub. L. 99-576, § 321(6), substituted "the member's" for "his".

EFFECTIVE DATE

Section 702(b) of Pub. L. 98-525 provided that: "Subchapter III of chapter 30 of title 38, United States Code, as added by subsection (a), shall take effect on July 1, 1986."

§ 3022. Amount of supplemental 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 under subsection (b) of this section, supplemental educational assistance under section 3021 of this title shall be paid—

(1) at a monthly rate of \$300 for an approved program of education pursued on a full-time basis; 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 a member of the Armed Forces for whom the Secretary concerned has provided for the payment of supplemental educational assistance who has a skill or specialty designated by the Secretary concerned, pursuant to regulations to be prescribed by the Secretary of Defense, as a skill or specialty in which there is a critical shortage of personnel, the Secretary concerned, pursuant to such regulations, may increase the rate of the supplemental educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary concerned considers appropriate, but the amount of any such increase may not exceed \$300 per month.

(Added Pub. L. 98-525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2559, § 1422; amended Pub. L. 100-689, title I, § 111(a)(5)(B), Nov. 18, 1988, 102 Stat. 4171; Pub. L. 101-237, title IV, § 423(b)(1)(A), (4)(C), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3022 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3022 was renumbered section 5122 of this title.

AMENDMENTS

1991—Pub. L. 102-83, § 5(a), renumbered section 1422 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted "3032" for "1432" and "3021" for "1421" in introductory provisions.

1989—Subsec. (a)(2). Pub. L. 101-237, § 423(b)(1)(A), substituted "Secretary" for "Administrator".

Subsec. (b). Pub. L. 101-237 inserted "of Defense" after third reference to "Secretary".

1988—Subsec. (a). Pub. L. 100-689 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".

§ 3023. Payment of supplemental educational assistance under this subchapter

The Secretary shall increase the monthly basic educational assistance allowance paid to an individual who is entitled to supplemental educational assistance under this subchapter by the monthly amount of the supplemental educational assistance to which the individual is entitled.

(Added Pub. L. 98-525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2560, § 1423; amended Pub. L. 101-237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3023, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3023 was renumbered section 5123 of this title.

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1423 of this title as this section.

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

SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

§ 3031. Time limitation for use of eligibility and entitlement

(a) Except as provided in subsections (b) through (g), and subject to subsection (h), of this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 10-year period beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—

(1) in the case of an individual who becomes entitled to such assistance under clause (A) or (B) of section 3012(a)(1) of this title, on the later of the date of such individual's last discharge or release from active duty or the date on which the four-year requirement described in clause (A)(ii) or (B)(ii), respectively, of such section 3012(a)(1) is met;

(2) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(B), on the later of the date of such individual's last discharge or release from active duty or January 1, 1990; and

(3) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(C) or 3012(a)(1)(C) of this title, on December 27, 2001.

(b) In the case of any eligible individual who has been prevented, as determined by the Secretary, from pursuing a program of education

under this chapter within the 10-year period prescribed by subsection (a) of this section because such individual had not met the nature of discharge requirement of this chapter before the nature of such individual's discharge or release was changed by appropriate authority, such 10-year period shall not run during the period of time that such individual was so prevented from pursuing such program of education.

(c) In the case of an individual eligible for educational assistance under the provisions of this chapter who, after such individual's last discharge or release from active duty, was detained by a foreign government or power, the 10-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized at a military, civilian, or Department of Veterans Affairs medical facility.

(d)(1) In the case of an individual eligible for educational assistance under this chapter who is prevented from pursuing the individual's chosen program of education before the expiration of the 10-year period for the use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which is not the result of the individual's own willful misconduct, such 10-year period—

(A) shall not run during the period the individual is so prevented from pursuing such program; and

(B) shall again begin running on the first day after the individual's recovery from such disability on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(2)(A) Subject to subparagraph (B), in the case of an individual eligible for educational assistance under this chapter who is prevented from pursuing the individual's chosen program of education before the expiration of the 10-year period for the use of entitlement under this chapter otherwise applicable under this section by reason of acting as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a) of this title, such 10-year period—

(i) shall not run during the period the individual is so prevented from pursuing such program; and

(ii) shall again begin running on the first day after the date of the recovery of the veteran or member from the injury, or the date on which the individual ceases to be the primary provider of personal care services for the veteran or member, whichever is earlier, on which it is reasonably feasible, as so determined, for the individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(B) Subparagraph (A) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D) of this title.

(e)(1) Except as provided in paragraph (2) of this subsection, in the case of an individual described in section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C) of this title who is entitled to basic educational assistance under this chapter, the 10-year period prescribed in subsection (a) of this section shall be reduced by an amount of time equal to the amount of time that such individual was not serving on active duty during the period beginning on January 1, 1977, and ending on June 30, 1985.

(2) In the case of an individual to which paragraph (1) of this subsection is applicable and who is described in section 3452(a)(1)(B) of this title, the 10-year period prescribed in subsection (a) of this section shall not be reduced by any period in 1977 before the individual began serving on active duty.

(f)(1) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under section 3013, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

(2) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under section 3013, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

(g) In the case of an individual described in section 3011(f)(3) of this title, the period during which that individual may use the individual's entitlement to educational assistance allowance expires on the last day of the 10-year period beginning on the date of the enactment of the Veterans Millennium Health Care and Benefits Act if that date is later than the date that would otherwise be applicable to that individual under this section.

(h) For purposes of subsection (a) of this section, an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 3011(a)(1)(A)(ii)(III) of this title.

(Added Pub. L. 98-525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2560, § 1431; amended Pub. L. 99-576, title III, §§ 307(b), 321(7), Oct. 28, 1986, 100 Stat. 3270, 3278; Pub. L. 100-689, title I, § 111(a)(6), Nov. 18, 1988, 102 Stat. 4171; Pub. L. 101-237, title IV, §§ 420(a)(1), (b), 423(a)(4), (b)(1), Dec. 18, 1989, 103 Stat. 2087, 2088, 2091, 2092; renumbered § 3031 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, § 302(a)(3), Oct. 29, 1992, 106 Stat. 4327; Pub. L. 106-117, title VII, § 702(b), Nov. 30, 1999, 113 Stat. 1583; Pub. L. 107-103, title I, § 105(c), Dec. 27, 2001,

115 Stat. 983; Pub. L. 107-330, title III, §308(g)(10), Dec. 6, 2002, 116 Stat. 2829; Pub. L. 111-377, title II, §201(a), Jan. 4, 2011, 124 Stat. 4122.)

REFERENCES IN TEXT

The date of the enactment of the Veterans Millennium Health Care and Benefits Act, referred to in subsec. (g), is the date of enactment of Pub. L. 106-117, which was approved Nov. 30, 1999.

AMENDMENTS

2011—Subsec. (d). Pub. L. 111-377 amended subsec. (d) generally. Prior to amendment, subsec. (d) related to application of the 10-year entitlement period to eligible individuals prevented from pursuing a program of education before the period's expiration because of a physical or mental disability which was not the result of the individual's own willful misconduct.

2002—Subsec. (a)(3). Pub. L. 107-330 substituted "December 27, 2001" for "the date of the enactment of this paragraph".

2001—Subsec. (a)(3). Pub. L. 107-103, §105(c)(1), added par. (3).

Subsec. (e)(1). Pub. L. 107-103, §105(c)(2), substituted "section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C)" for "section 3011(a)(1)(B) or 3012(a)(1)(B)".

1999—Subsec. (a). Pub. L. 106-117, §702(b)(2), in introductory provisions, substituted "through (g)" for "through (e)" and "subsection (h)" for "subsection (g)".

Subsecs. (g), (h). Pub. L. 106-117, §702(b)(1), (3), added subsec. (g) and redesignated former subsec. (g) as (h).

1992—Subsec. (e)(1). Pub. L. 102-568 substituted "June 30, 1985" for "October 18, 1984".

1991—Pub. L. 102-83, §5(a), renumbered section 1431 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted "3012(a)(1)" for "1412(a)(1)" in two places in par. (1) and "3011(a)(1)(B)" for "1411(a)(1)(B)" in par. (2).

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted "3011(a)(1)(B) or 3012(a)(1)(B)" for "1411(a)(1)(B) or 1412(a)(1)(B)" in par. (1) and "3452(a)(1)(B)" for "1652(a)(1)(B)" in par. (2).

Subsec. (f). Pub. L. 102-83, §5(c)(1), substituted "3013" for "1413" in pars. (1) and (2).

Subsec. (g). Pub. L. 102-83, §5(c)(1), substituted "3011(a)(1)(A)(ii)(III)" for "1411(a)(1)(A)(ii)(III)".

1989—Subsec. (a). Pub. L. 101-237, §420(a)(1)(B), inserted ", and subject to subsection (g)," before "of this section".

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

Subsec. (c). Pub. L. 101-237, §423(b)(1)(B), substituted "Department of Veterans Affairs" for "Veterans' Administration".

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

Subsec. (e). Pub. L. 101-237, §420(b), designated existing provisions as par. (1), and substituted "Except as provided in paragraph (2) of this subsection, in" for "In", and added par. (2).

Subsec. (f)(1), (2). Pub. L. 101-237, §423(a)(4), substituted " , under section 1413," for " , under this section".

Subsec. (g). Pub. L. 101-237, §420(a)(1)(A), added subsec. (g).

1988—Subsec. (a). Pub. L. 100-689 substituted "beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—" and pars. (1) and (2) for "beginning on (1) the date of such individual's last discharge or release from active duty, or (2) the last day on which such individual becomes entitled to such assistance, whichever is later".

1986—Subsec. (a). Pub. L. 99-576, §§307(b)(1), 321(7)(A), made identical amendments, substituting "(e)" for "(d)".

Subsec. (b). Pub. L. 99-576, §321(7)(B), struck out "subchapter II or III of" after "program of education

under", substituted "requirement of this chapter" for "requirement of such subchapter", struck out the cl. (1) designation before "the nature of such individual's discharge" and struck out "or (2) with respect to educational assistance under subchapter II of this chapter, the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions described in section 1411(a)(3) or 1412(a)(3) of this title," after "appropriate authority,".

Subsec. (e). Pub. L. 99-576, §307(b)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 99-576, §307(b)(2), redesignated former subsec. (e) as (f).

Subsec. (f)(2). Pub. L. 99-576, §321(7)(C), which directed that subsec. (e)(2) be amended by inserting "not" after "educational institution" was executed to subsec. (f)(2) to reflect the probable intent of Congress and the intervening redesignation of subsec. (e) as (f) by section 307(b)(3) of Pub. L. 99-576.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title II, §201(d), Jan. 4, 2011, 124 Stat. 4124, provided that: "The amendments made by this section [amending this section and sections 3319 and 3512 of this title] shall take effect on August 1, 2011, and shall apply with respect to preventions and suspension of pursuit of programs of education that commence on or after that date."

EFFECTIVE DATE OF 1992 AMENDMENT

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

DELIMITING PERIOD

Pub. L. 106-419, title I, §102(e), Nov. 1, 2000, 114 Stat. 1825, provided that:

"(1) In the case of an individual described in paragraph (2), with respect to the time limitation under section 3031 of title 38, United States Code, for use of eligibility and entitlement of basic educational assistance under chapter 30 of such title, the 10-year period applicable under such section shall begin on the later of—

"(A) the date of the enactment of this Act [Nov. 1, 2000]; or

"(B) the date of the individual's last discharge or release from active duty.

"(2) An individual referred to in paragraph (1) is an individual who—

"(A) before the date of the enactment of this Act, was not eligible for such basic educational assistance by reason of the requirement of a secondary school diploma (or equivalency certificate) as a condition of eligibility for such assistance as in effect on the date preceding the date of the enactment of this Act; and

"(B) becomes entitled to basic educational assistance under section 3011(a)(2), 3012(a)(2), or 3018(b)(4) of title 38, United States Code, by reason of the amendments made by this section [amending sections 3011, 3012, 3017, and 3018 of this title and section 16132 of Title 10, Armed Forces]."

Pub. L. 106-419, title I, §103(e), Nov. 1, 2000, 114 Stat. 1826, provided that:

"(1) In the case of an individual described in paragraph (2), with respect to the time limitation under section 3031 of title 38, United States Code, for use of eligibility and entitlement of basic educational assistance under chapter 30 of such title, the 10-year period applicable under such section shall begin on the later of—

"(A) the date of the enactment of this Act [Nov. 1, 2000]; or

"(B) the date of the individual's last discharge or release from active duty.

"(2) An individual referred to in paragraph (1) is an individual who—

"(A) before the date of the enactment of this Act, was not eligible for basic educational assistance

under chapter 30 of such title by reason of the requirement of an initial obligated period of active duty as condition of eligibility for such assistance as in effect on the date preceding the date of the enactment of this Act; and

“(B) on or after such date becomes eligible for such assistance by reason of the amendments made by this section [amending sections 3011 to 3013 and 3015 of this title].”

§ 3032. Limitations on educational assistance for certain individuals

(a) In the case of an individual entitled to educational assistance under this chapter who is pursuing a program of education—

- (1) while on active duty; or
- (2) on less than a half-time basis,

the amount of the monthly educational assistance allowance payable to such individual under this chapter is the amount determined under subsection (b) of this section.

(b) The amount of the educational assistance allowance payable to an individual described in subsection (a) of this section is the least of the following: (1) the amount of the educational assistance allowance otherwise payable to such individual under this chapter, (2) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay, or (3) the amount of the charges of the educational institution elected by the individual under section 3014(b)(1) of this title.

(c)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

(A) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly educational assistance allowance otherwise payable to such individual under this chapter;

(B) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly educational assistance allowance; and

(C) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly educational assistance allowance.

(2) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under paragraph (1) of this subsection as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(3)(A) Except as provided in subparagraph (B) of this paragraph, for each month that an individual is paid a monthly educational assistance allowance under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

- (i) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A) of this subsection;

- (ii) 55 percent of a month in the case of payments made in accordance with paragraph (1)(B) of this subsection; and

- (iii) 35 percent of a month in the case of payments made in accordance with paragraph (1)(C) of this subsection.

(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.

(d)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

(B) For purposes of this paragraph, the term “established charge” means the lesser of—

- (i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

- (ii) the actual charge to the individual for such course or courses.

(2) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

(3) In each case in which the rate of payment to an individual is determined under paragraph (1) of this subsection, the period of entitlement of such individual under this chapter shall be charged at the rate of one month for each payment of educational assistance to the individual that is equal to the amount of monthly educational assistance the individual would otherwise be eligible to receive for full-time pursuit of an institutional course under this chapter.

(e)(1) Notwithstanding subsection (a) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 3034(d) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay.

(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Secretary has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

(3) The number of months of entitlement charged in the case of any individual for a program of education described in paragraph (1) of this subsection shall be equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such program by the monthly rate of educational assistance which, except for paragraph (1) of this subsection, such individual would otherwise be paid under subsection

(a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.

(f)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a licensing or certification test described in section 3452(b) of this title is the lesser of \$2,000 or the fee charged for the test.

(2) The number of months of entitlement charged in the case of any individual for such licensing or certification test is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance which, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

(3) In no event shall payment of educational assistance under this subsection for such a test exceed the amount of the individual's available entitlement under this chapter.

(g)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2561, §1432; amended Pub. L. 99-576, title III, §301(b), (d)(1), Oct. 28, 1986, 100 Stat. 3267, 3268; Pub. L. 100-689, title I, §§108(a)(2), 111(a)(7)(A), (8), Nov. 18, 1988, 102 Stat. 4169, 4172; Pub. L. 101-237, title IV, §422(a)(2), Dec. 18, 1989, 103 Stat. 2089; Pub. L. 102-16, §10(a)(3), Mar. 22, 1991, 105 Stat. 55; renumbered §3032 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §310(a), Oct. 29, 1992, 106 Stat. 4329; Pub. L. 103-446, title XII, §1201(d)(6), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104-275, title I, §105(a), Oct. 9, 1996, 110 Stat. 3327; Pub. L. 106-419, title I, §122(b)(1), Nov. 1, 2000, 114 Stat. 1833; Pub. L. 107-14, §7(b)(2)(B), June 5, 2001, 115 Stat. 32; Pub. L. 108-454, title I, §106(b)(1), Dec. 10, 2004, 118 Stat. 3602.)

AMENDMENTS

2004—Subsec. (g). Pub. L. 108-454 added subsec. (g).

2001—Subsec. (b). Pub. L. 107-14 substituted "the least of the following:" for "the lesser of" and added cl. (3).

2000—Subsec. (f). Pub. L. 106-419 added subsec. (f).

1996—Subsecs. (d) to (f). Pub. L. 104-275 redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out former subsec. (d) which read as follows:

"(d)(1) The amount of the monthly educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under section 3015 and section 3022, if applicable, of this title.

"(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month."

1994—Subsec. (f)(3). Pub. L. 103-446 substituted "(d), or (e)(1)" for "(c), or (d)(1)".

1992—Subsec. (f)(1). Pub. L. 102-568, §310(a)(1), struck out "(other than tuition and fees charged for or attributable to solo flying hours)" after "for tuition and fees".

Subsec. (f)(4). Pub. L. 102-568, §310(a)(2), added par. (4).

1991—Pub. L. 102-83, §5(a), renumbered section 1432 of this title as this section.

Subsec. (d)(1). Pub. L. 102-83, §5(c)(1), substituted "3015" for "1415" and "3022" for "1422".

Subsec. (f)(1). Pub. L. 102-83, §5(c)(1), substituted "3034(d)" for "1434(d)".

Subsec. (f)(3). Pub. L. 102-83, §5(c)(1), substituted "3015" for "1415".

Pub. L. 102-16 substituted "(c), or (d)(1)" for "or (c)".

1989—Subsec. (f). Pub. L. 101-237 added subsec. (f).

1988—Subsec. (c)(3)(A). Pub. L. 100-689, §111(a)(8)(A), (B), designated existing provision as subpar. (A) and substituted "Except as provided in subparagraph (B) of this paragraph, for" for "For", and redesignated subpars. (A) to (C) as cls. (i) to (iii), respectively.

Subsec. (c)(3)(B). Pub. L. 100-689, §111(a)(8)(C), added subpar. (B).

Subsec. (d). Pub. L. 100-689, §108(a)(2), added subsec. (d).

Subsec. (e). Pub. L. 100-689, §111(a)(7)(A), added subsec. (e).

1986—Pub. L. 99-576, §301(d)(1), substituted "Limitations" for "Limitation" in section catchline.

Subsec. (c). Pub. L. 99-576, §301(b), added subsec. (c).

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title I, §122(d), Nov. 1, 2000, 114 Stat. 1837, provided that: "The amendments made by this section [enacting section 3689 of this title and amending this section and sections 3232, 3452, 3482, 3501, and 3532 of this title] shall take effect on March 1, 2001, and shall apply with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-568 applicable to flight training received under this chapter, chapter 32 of this title, and chapter 106 of Title 10, Armed Forces, after Sept. 30, 1992, see section 310(d) of Pub. L. 102-568, set out as a note under section 16131 of Title 10.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-237 effective Sept. 30, 1990, see section 422(d) of Pub. L. 101-237, set out as a note under section 16131 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 108(a)(2) of Pub. L. 100-689 effective Jan. 1, 1989, see section 108(c) of Pub. L. 100-689, set out as a note under section 3002 of this title.

INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING AP-
PRENTICESHIP OR ON-JOB TRAINING; MONTGOMERY GI
BILL

Pub. L. 108-454, title I, §103(a), Dec. 10, 2004, 118 Stat. 3600, provided that: "For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (c)(1) of section 3032 of title 38, United States Code, shall be applied as if—

- "(1) the reference to '75 percent' in subparagraph (A) were a reference to '85 percent';
- "(2) the reference to '55 percent' in subparagraph (B) were a reference to '65 percent'; and
- "(3) the reference to '35 percent' in subparagraph (C) were a reference to '45 percent'."

**§ 3033. Bar to duplication of educational assist-
ance benefits**

(a)(1) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, 33, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs concurrently but shall elect (in such form and manner as the Secretary may prescribe) under which program to receive educational assistance.

(2) An individual entitled to educational assistance under chapter 34 of this title may not receive assistance under this chapter before January 1, 1990.

(b) A period of service counted for purposes of repayment under chapter 109 of title 10 of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

(c) An individual who serves in the Selected Reserve may not receive credit for such service under two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10 but shall elect (in such form and manner as the Secretary may prescribe) the program to which such service is to be credited.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2561, §1433; amended Pub. L. 99-576, title III, §306, Oct. 28, 1986, 100 Stat. 3269; Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102-16, §10(a)(4), Mar. 22, 1991, 105 Stat. 55; renumbered §3033, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 110-252, title V, §5003(b)(1)(A), June 30, 2008, 122 Stat. 2375.)

REFERENCES IN TEXT

The Hostage Relief Act of 1980, referred to in subsec. (a)(1), is Pub. L. 96-449, Oct. 14, 1980, 94 Stat. 1967, as amended, which was formerly set out as a note under section 5561 of Title 5, Government Organization and Employees.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-252, §5003(b)(1)(A)(i), inserted "33," after "32."

Subsec. (c). Pub. L. 110-252, §5003(b)(1)(A)(ii), substituted "two or more of the programs established by

this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10" for "both the program established by this chapter and the program established by chapter 106 of title 10".

1991—Pub. L. 102-83 renumbered section 1433 of this title as this section.

Subsec. (b). Pub. L. 102-16 substituted "chapter 109 of title 10" for "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note)."

1989—Subsecs. (a)(1), (c). Pub. L. 101-237 substituted "Secretary" for "Administrator".

1986—Subsec. (a)(1). Pub. L. 99-576, §306(a), substituted "chapter 31, 32, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs" for "chapter 31, 34, or 35 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs".

Subsec. (c). Pub. L. 99-576, §306(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "An individual who is entitled to educational assistance under chapter 106 of title 10 may not also receive educational assistance under this chapter based on entitlement under section 1412 of this title."

EFFECTIVE DATE OF 2008 AMENDMENT

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

§ 3034. Program administration

(a)(1) Except as otherwise provided in this chapter, the provisions of sections 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 3680(c), 3680(f), 3686(a), and 3687) shall be applicable to the provision of educational assistance under this chapter.

(2) The term "eligible veteran", as used in the provisions of the sections enumerated in paragraph (1) of this subsection, shall be deemed to include an individual who is eligible for educational assistance under this chapter.

(3) The Secretary may, without regard to the application to this chapter of so much of the provisions of section 3471 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", and pursuant to such regulations as the Secretary shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment during and since the period of such veteran's active military service), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

(b) Regulations prescribed by the Secretary of Defense under this chapter shall be uniform for the Armed Forces under the jurisdiction of the Secretary of a military department.

(c) Payment of educational assistance allowance in the case of an eligible individual pursuing a program of education under this chapter on less than a half-time basis shall be made in a lump-sum amount for the entire quarter, semester, or term not later than the last day of the month immediately following the month in

which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump-sum payment shall be computed at the rate determined under section 3032(b) of this title.

(d) The Secretary may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 3680A(b) of this title) by an individual entitled to basic educational assistance under this chapter if—

(1) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

(2) the individual possesses a valid private pilot certificate and meets, on the day the individual begins a course of flight training, the medical requirements necessary for a commercial pilot certificate; and

(3) the flight school courses are approved by the Federal Aviation Administration and are offered by a certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.

(e)(1) In the case of a member of the Armed Forces who participates in basic educational assistance under this chapter, the Secretary shall furnish the information described in paragraph (2) to each such member. The Secretary shall furnish such information as soon as practicable after the basic pay of the member has been reduced by \$1,200 in accordance with section 3011(b) or 3012(c) of this title and at such additional times as the Secretary determines appropriate.

(2) The information referred to in paragraph (1) is information with respect to the benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of the basic educational assistance program under this chapter, including application forms for such basic educational assistance under section 5102 of this title.

(3) The Secretary shall furnish the forms described in paragraph (2) and other educational materials to educational institutions, training establishments, and military education personnel, as the Secretary determines appropriate.

(4) The Secretary shall use amounts appropriated for readjustment benefits to carry out this subsection and section 5102 of this title with respect to application forms under that section for basic educational assistance under this chapter.

(Added Pub. L. 98-525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2562, § 1434; amended Pub. L. 99-576, title III, §§ 301(c), 302, 305, 308(a), Oct. 28, 1986, 100 Stat. 3268-3270; Pub. L. 100-689, title I, §§ 106(a), 111(a)(7)(B), Nov. 18, 1988, 102 Stat. 4166, 4172; Pub. L. 101-237, title IV, §§ 415(b), 422(a)(1), 423(a)(5)(A), (6), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2086, 2088, 2091, 2092; Pub. L. 102-16, § 2(b)(2), Mar. 22, 1991, 105 Stat. 49; renumbered § 3034 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, § 313(a)(4), Oct. 29, 1992, 106 Stat. 4332; Pub. L. 103-446, title VI, § 601(a), Nov. 2, 1994, 108 Stat. 4670; Pub. L. 105-368, title II, §§ 204(a), 206(a), Nov. 11, 1998, 112 Stat. 3327; Pub. L. 111-377, title II, § 203(a)(2)(A), Jan. 4, 2011, 124 Stat. 4125.)

AMENDMENTS

2011—Subsec. (d)(3). Pub. L. 111-377 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.”

1998—Subsec. (d)(2). Pub. L. 105-368, § 204(a), substituted “pilot certificate” for “pilot’s license” in two places and inserted “, on the day the individual begins a course of flight training,” after “meets”.

Subsec. (e). Pub. L. 105-368, § 206(a), added subsec. (e).

1994—Subsec. (d). Pub. L. 103-446 struck out “(1)” before “The Secretary may approve”, redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and struck out former par. (2) which read as follows: “This subsection shall not apply to a course of flight training that commences on or after October 1, 1994.”

1992—Subsec. (a)(1). Pub. L. 102-568, § 313(a)(4)(A), struck out “3473,” after “3471.”

Subsec. (d)(1). Pub. L. 102-568, § 313(a)(4)(B), substituted “3680A(b)” for “3473(b)” in introductory provisions.

1991—Pub. L. 102-83, § 5(a), renumbered section 1434 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, § 5(c)(1), substituted “3470, 3471, 3473, 3474, 3476, 3482(g), 3483, and 3485” for “1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685” and “3680(c), 3680(f), 3686(a), and 3687” for “1780(c), 1780(f), 1786(a), and 1787”.

Pub. L. 102-16 struck out “1663.” before “1670.”

Subsec. (a)(3). Pub. L. 102-83, § 5(c)(1), substituted “3471” for “1671”.

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

Subsec. (d)(1). Pub. L. 102-83, § 5(c)(1), substituted “3473(b)” for “1673(b)” in introductory provisions.

1989—Subsec. (a)(1). Pub. L. 101-237, § 423(a)(6)(A), inserted “1780(f),” after “1780(c),”.

Pub. L. 101-237, § 415(b)(1), struck out “1780(g),” after “1780(c),”.

Subsec. (a)(3). Pub. L. 101-237, § 423(b)(1)(A), substituted “Secretary” for “Administrator” wherever appearing.

Pub. L. 101-237, § 423(a)(5)(A), substituted “employment during and since the period of such veteran’s active military service)” for “employment”.

Subsec. (b). Pub. L. 101-237, § 415(b)(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The Administrator may, pursuant to regulations which the Administrator shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education by an individual enrolled in or pursuing a program of education under this chapter for any period for which the individual receives educational assistance under this chapter. Subject to such reports and proof as the Administrator may require to show an individual’s enrollment in and satisfactory pursuit of such individual’s program, the Administrator may withhold payment of benefits to such individual until the required proof is received and the amount of the payment is appropriately adjusted.”

Subsec. (c). Pub. L. 101-237, § 423(a)(6)(B), added subsec. (c).

Pub. L. 101-237, § 415(b)(3), redesignated subsec. (c) as (b).

Subsec. (d). Pub. L. 101-237, § 422(a)(1), added subsec. (d).

1988—Subsec. (a)(1). Pub. L. 100-689, §§ 106(a)(1), 111(a)(7)(B)(i), designated existing first sentence as par. (1) and inserted “1786(a),” after “1780(g),”.

Subsec. (a)(2). Pub. L. 100-689, § 106(a)(2), (3), designated existing second sentence, defining “eligible veteran”, as par. (2) and substituted “the provisions of the sections enumerated in paragraph (1) of this subsection” for “those provisions”.

Subsec. (a)(3). Pub. L. 100-689, § 106(a)(4), added par. (3).

Subsecs. (c), (d). Pub. L. 100-689, §111(a)(7)(B)(ii), (iii), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "When an eligible individual is pursuing a program of education under this chapter by correspondence, the individual's entitlement under this chapter shall be charged at the rate of one month's entitlement for each month of benefits paid to the individual."

1986—Subsec. (a). Pub. L. 99-576, §§301(c), 308(a), substituted "1683, and 1685" for "and 1683" and "(with the exception of sections 1780(c), 1780(g), and 1787)" for "(with the exception of sections 1777, 1780(a)(5), 1780(b), 1786, 1787, and 1792 of such chapter)".

Subsec. (b). Pub. L. 99-576, §305, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "An educational assistance allowance for any period may not be paid to an individual enrolled in or pursuing a program of education under this chapter until the Administrator has received—

"(1) from such individual a certification as to such individual's actual attendance during such period; and

"(2) from the educational institution a certification, or an endorsement of the individual's certificate, that such individual was enrolled in and pursuing a program of education during such period."

Subsecs. (c), (d). Pub. L. 99-576, §302, added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title II, §203(e), Jan. 4, 2011, 124 Stat. 4126, provided that: "The amendments made by this section [amending this section and sections 3671 to 3673, 3675, 3679, and 3689 of this title] shall take effect on August 1, 2011."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 204(a) of Pub. L. 105-368 applicable with respect to courses of flight training beginning on or after Oct. 1, 1998, see section 204(c) of Pub. L. 105-368, set out as a note under section 16136 of Title 10, Armed Forces.

Pub. L. 105-368, title II, §206(b), Nov. 11, 1998, 112 Stat. 3328, provided that: "The amendment made by this section [amending this section] shall take effect 180 days after the date of the enactment of this Act [Nov. 11, 1998]."

EFFECTIVE DATE OF 1994 AMENDMENT

Section 601(d) of Pub. L. 103-446 provided that: "The amendments made by this section [amending this section, section 3241 of this title, and section 16136 of Title 10, Armed Forces] shall take effect as of October 1, 1994."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 422(a)(1) of Pub. L. 101-237 effective Sept. 30, 1990, see section 422(d) of Pub. L. 101-237, set out as a note under section 16131 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 106(d) of Pub. L. 100-689 provided that: "The amendments made by this section [amending this section and sections 1641 and 1733 [now 3241 and 3533] of this title] shall take effect on August 15, 1989."

SAVINGS PROVISION

Amendment by Pub. L. 102-586 not applicable to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on Oct. 29, 1992, for as long as such person is continuously thereafter so enrolled and meets requirements of eligibility for such assistance, see section 313(b) of Pub. L. 102-568, set out as a note under section 16136 of Title 10, Armed Forces.

RATIFICATION

Pub. L. 101-366, title II, §206(b), Aug. 15, 1990, 104 Stat. 442, provided that: "Any use by the Department of Vet-

erans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act [Aug. 15, 1990], of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) [set out below] is hereby ratified."

CONTINUED USE OF CATEGORIES OF INFORMATION USED PRIOR TO DECEMBER 18, 1989

Section 413(b) of Pub. L. 101-237 provided that: "Through July 1, 1990, no provision of law shall preclude the Department of Veterans Affairs, in making determinations of the active-duty or Selected Reserve status, or the character of service, of individuals receiving benefits under chapter 30 or 32 of title 38, United States Code, or chapter 106 of title 10, United States Code, from continuing to use any category of information provided by the Department of Defense or Department of Transportation that the Department of Veterans Affairs was using prior to the date of the enactment of this Act [Dec. 18, 1989], if the Secretary of Veterans Affairs determines that the information has proven to be sufficiently reliable in making such determinations."

EVALUATION OF PROVIDING ASSISTANCE FOR FLIGHT TRAINING

Section 422(c) of Pub. L. 101-237 provided that:

"(1)(A) The Secretary of Veterans Affairs shall conduct an evaluation of paying educational assistance for flight training under chapter 30 of title 38, United States Code, and chapter 106 of title 10, United States Code.

"(B) The evaluation required by subparagraph (A) shall be designed to determine the effectiveness of the provision of educational assistance referred to in such subparagraph in preparing the recipients of such assistance for recognized vocational objectives in the field of aviation.

"(2) Not later than January 31, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

"(A) information, separately as to payments made under chapter 30 of title 38, United States Code, and payments made under chapter 106 of title 10, United States Code, regarding—

"(i) the number of recipients paid educational assistance allowances for flight training;

"(ii) the amount of such assistance;

"(iii) the amount paid by the recipients for such training;

"(iv) the vocational objectives of the recipients; and

"(v) the extent to which the training (I) assists the recipients in achieving employment in the field of aviation, or (II) was used only or primarily for recreational or avocational purposes; and

"(B) any recommendations for legislation that the Secretary considers appropriate to include in the report."

§ 3035. Allocation of administration and of program costs

(a) Except to the extent otherwise specifically provided in this chapter, the educational assistance programs established by this chapter shall be administered by the Department of Veterans Affairs.

(b)(1) Except to the extent provided in paragraphs (2), (3), and (4), payments for entitlement earned under subchapter II of this chapter shall be made from funds appropriated to, or otherwise available to, the Department of Veterans

Affairs for the payment of readjustment benefits and from transfers from the Post-Vietnam Era Veterans Education Account pursuant to section 3232(b)(2)(B) of this title.

(2) Payments for entitlement earned under subchapter II of this chapter that is established under section 3015(d) of this title at a rate in excess of the rate prescribed under subsection (a) or (b) of section 3015 of this title shall, to the extent of that excess, be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Homeland Security, as appropriate.

(3) Payment for entitlements established under section 3018A or 3018B of this title shall be made—

(A) except as provided in subparagraphs (B) and (C) of this paragraph, from the Department of Defense Education Benefits Fund established under section 2006 of title 10;

(B) in the case of any individual described in section 3018A(a)(3), 3018B(a)(1)(C), or 3018B(a)(2)(C) of this title, from funds appropriated, or otherwise available, to the Department of Veterans Affairs for the payment of readjustment benefits; and

(C) in the case of the increase in payments made under section 3015(f) of this title, from the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title.

(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

(c) Payments for educational assistance provided under subchapter III of this chapter shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Homeland Security, as appropriate.

(d) Funds for the payment by the Secretary of benefits under this chapter that are to be paid from the Department of Defense Education Benefits Fund shall be transferred to the Department of Veterans Affairs from such Fund as necessary and in accordance with agreements entered into under section 2006 of title 10 by the Secretary, the Secretary of Defense, and the Secretary of the Treasury. Funds for the payment by the Secretary of benefits under this chapter that are to be paid from appropriations made to the Department of Homeland Security shall be transferred to the Department of Veterans Affairs as necessary. The Secretary and the Secretary of Homeland Security shall enter into an agreement for the manner in which such transfers are to be made.

(e) Payments for tutorial assistance benefits under section 3019 of this title shall be made—

(1) in the case of the first \$600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Department of Veterans Affairs for the payment of readjustment benefits; and

(2) in the case of payments to an individual for such benefits in excess of \$600, from—

(A) funds appropriated, or otherwise available, to the Department of Veterans Affairs for the payment of readjustment benefits;

(B) the Department of Defense Education Benefits Fund established under section 2006 of title 10; and

(C) funds appropriated to the Department of Homeland Security,

in the same proportion as the Fund described in subclause (B) of this clause and the funds described in subclause (A) or (C) of this clause are used to pay the educational assistance allowance to the individual under this chapter.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2562, §1435; amended Pub. L. 99-576, title III, §321(8), Oct. 28, 1986, 100 Stat. 3278; Pub. L. 100-689, title I, §107(a)(2), Nov. 18, 1988, 102 Stat. 4168; Pub. L. 101-237, title IV, §423(b)(1), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 101-510, div. A, title V, §561(b)(3), Nov. 5, 1990, 104 Stat. 1573; renumbered §3035 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-484, div. D, title XLIV, §4404(b)(3), Oct. 23, 1992, 106 Stat. 2706; Pub. L. 103-446, title XII, §1201(d)(7), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104-275, title I, §106(c)(2), Oct. 9, 1996, 110 Stat. 3329; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107-314, div. A, title VI, §643(b), Dec. 2, 2002, 116 Stat. 2577; Pub. L. 107-330, title III, §308(c)(1), Dec. 6, 2002, 116 Stat. 2827.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-314, §643(b)(1), and Pub. L. 107-330, §308(c)(1)(A), amended par. (1) identically, substituting “paragraphs (2), (3), and (4),” for “paragraphs (2) and (3) of this subsection.”

Subsec. (b)(2). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (b)(4). Pub. L. 107-314, §643(b)(2), and Pub. L. 107-330, §308(c)(1)(B), amended subsec. (b) identically, adding par. (4).

Subsecs. (c) to (e). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

1996—Subsec. (b)(1). Pub. L. 104-275 inserted before period at end “and from transfers from the Post-Vietnam Era Veterans Education Account pursuant to section 3232(b)(2)(B) of this title”.

1994—Subsec. (b)(2). Pub. L. 103-446, §1201(d)(7)(A), substituted “section 3015(d)” for “section 3015(c)”.

Subsec. (b)(3)(C). Pub. L. 103-446, §1201(d)(7)(B), substituted “section 3015(f)” for “section 3015(e)”.

1992—Subsec. (b)(3). Pub. L. 102-484 inserted “or 3018B” in introductory provisions and “, 3018B(a)(1)(C), or 3018B(a)(2)(C)” in subpar. (B).

1991—Pub. L. 102-83, §5(a), renumbered section 1435 of this title as this section.

Subsec. (b)(2). Pub. L. 102-83, §5(c)(1), substituted “3015(c)” for “1415(c)” and “3015” for “1415”.

Subsec. (b)(3). Pub. L. 102-83, §5(c)(1), substituted “3018A” for “1418A” in introductory provisions, “3018A(a)(3)” for “1418A(a)(3)” in subpar. (B), and “3015(e)” for “1415(e)” and “3222(a)” for “1622(a)” in subpar. (C).

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted “3019” for “1419” in introductory provisions.

1990—Subsec. (b)(1). Pub. L. 101-510, §561(b)(3)(A), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (b)(3). Pub. L. 101-510, §561(b)(3)(B), added par. (3).

1989—Subsecs. (a), (b)(1), (d), (e)(1), (2)(A). Pub. L. 101-237 substituted “Secretary” and “Department of

Veterans Affairs" for "Administrator" and "Veterans' Administration", respectively, wherever appearing.

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

1986—Subsec. (b)(2). Pub. L. 99-576 substituted "subsection (a) or (b) of section 1415" for "section 1415(a)".

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107-330, title III, §308(c)(2), Dec. 6, 2002, 116 Stat. 2828, provided that: "The amendments made by this subsection [amending this section] shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), to which such amendments relate."

Pub. L. 107-314, div. A, title VI, §643(c)(2), Dec. 2, 2002, 116 Stat. 2578, provided that: "The amendments made by subsection (b) [amending this section] shall take effect as if made by section 654 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.

§ 3036. Reporting requirement

(a) The Secretary of Defense and the Secretary shall submit to the Congress at least once every two years separate reports on the operation of the program provided for in this chapter.

(b) The Secretary of Defense shall include in each report submitted under this section—

(1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service, and (C) describing the efforts under sections 3011(i) and 3012(g) of this title to inform members of the Armed Forces of the minimum service requirements for entitlement to educational assistance benefits under this chapter and the results from such efforts; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary of Defense considers appropriate.

(c) The Secretary shall include in each report submitted under this section—

(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary considers appropriate.

(d) No report shall be required under this section after January 1, 2011.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2563, §1436; amended Pub. L.

101-237, title IV, §423(b)(1)(A), (4)(D), Dec. 18, 1989, 103 Stat. 2092; renumbered §3036, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title II, §207(c), Nov. 11, 1998, 112 Stat. 3328; Pub. L. 106-419, title IV, §403(c)(4), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 109-444, §4(b), Dec. 21, 2006, 120 Stat. 3308; Pub. L. 109-461, title III, §305(b), title X, §1006(b), Dec. 22, 2006, 120 Stat. 3428, 3468.)

AMENDMENTS

2006—Subsec. (d). 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, §305(b), substituted "January 1, 2011" for "January 1, 2005".

Pub. L. 109-444, which struck out subsec. (d), was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

2000—Subsec. (d). Pub. L. 106-419 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

"(d)(1) The first report by the Secretary of Defense under this section shall be submitted not later than January 1, 1986.

"(2) The first report by the Secretary under this section shall be submitted not later than January 1, 1988."

1998—Subsec. (b)(1)(C). Pub. L. 105-368 added cl. (C).

1991—Pub. L. 102-83 renumbered section 1436 of this title as this section.

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

Subsec. (b). Pub. L. 101-237, §423(b)(4)(D), inserted "of Defense" after "Secretary" in introductory provisions and par. (2).

Subsecs. (c), (d)(2). Pub. L. 101-237, §423(b)(1)(A), substituted "Secretary" for "Administrator" wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title II, §207(d)(2), Nov. 11, 1998, 112 Stat. 3328, provided that: "The amendments made by subsection (c) [amending this section] shall apply with respect to reports to Congress submitted by the Secretary of Defense under section 3036 of title 38, United States Code, on or after January 1, 2000."

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

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