

Pars. (4), (5). Pub. L. 102-83, §5(c)(1), substituted "3452(c)" for "1652(c)" in par. (4) and "3452(e)" for "1652(e)" in par. (5).

1988—Par. (2)(B). Pub. L. 100-689 inserted designation "(i)" after "includes" and added cl. (ii).

1986—Par. (1)(A). Pub. L. 99-576, §309(a)(2), inserted "and before July 1, 1985," in two places and substituted "commencing on or after January 1, 1977" for "commencing on or after such date" and "released from active duty after January 1, 1977" for "released from active duty after such date".

Par. (2). Pub. L. 99-576, §310(a)(1), added par. (2) and struck out former par. (2) which read as follows: "The terms 'program of education' and 'educational institution' shall have the same meaning ascribed to them in sections 1652(b) and 1652(c), respectively, of this title."

Pars. (4), (5). Pub. L. 99-576, §310(a)(2), added pars. (4) and (5).

1984—Par. (1)(D). Pub. L. 98-223 added subpar. (D).

1980—Par. (1)(A). Pub. L. 96-466 inserted "who is not eligible for educational assistance under chapter 34 of this title and" after "any veteran" and struck out "initially" before "entered military service" in two places.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 802(d)(1) of Pub. L. 96-466 provided that: "The amendments made by section 401 [amending this section] shall take effect as of January 1, 1977."

#### 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.

#### ENROLLMENT IN PROGRAM BEFORE APRIL 1, 1987

For provisions for continued eligibility for enrollment in the program established by this chapter until Apr. 1, 1987, of individuals on active duty in the Armed Forces who were eligible therefor on June 30, 1985, and requiring notice of such continued eligibility to affected individuals, see section 309(c), (d) of Pub. L. 99-576, set out as a note under section 3201 of this title.

### SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

#### § 3221. Eligibility

(a) Each person entering military service on or after January 1, 1977, and before July 1, 1985, shall have the right to enroll in the educational benefits program provided by this chapter (hereinafter in this chapter referred to as the "program" except where the text indicates otherwise) at any time during such person's service on active duty before July 1, 1985. When a person elects to enroll in the program, such person must participate for at least 12 consecutive months before disenrolling or suspending participation.

(b) The requirement for 12 consecutive months of participation required by subsection (a) of this section shall not apply when (1) the participant suspends participation or disenrolls from the program because of personal hardship as defined in regulations issued jointly by the Sec-

retary and the Secretary of Defense, or (2) the participant is discharged or released from active duty.

(c) A participant shall be permitted to suspend participation or disenroll from the program at the end of any 12-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed by regulations issued jointly by the Secretary and the Secretary of Defense.

(d) If a participant disenrolls from the program, such participant forfeits any entitlement to benefits under the program except as provided in subsection (e) of this section. A participant who disenrolls from the program is eligible for a refund of such participant's contributions as provided in section 3223 of this title.

(e) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed jointly by the Secretary and the Secretary of Defense.

(f) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) the program to which such service is to be credited.

(Added Pub. L. 94-502, title IV, §404, Oct. 15, 1976, 90 Stat. 2394, §1621; amended Pub. L. 99-576, title III, §309(a)(3), Oct. 28, 1986, 100 Stat. 3270; Pub. L. 101-237, title IV, §§410, 423(b)(1)(A), (4)(A), (6), Dec. 18, 1989, 103 Stat. 2084, 2092, 2093; renumbered §3221 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 1621 of this title as this section.

Subsec. (d). Pub. L. 102-83, §5(c)(1), substituted "3223" for "1623".

1989—Subsec. (b)(1). Pub. L. 101-237, §423(b)(1)(A), (4)(A), substituted "Secretary" for "Administrator" after "jointly by the" and struck out "(hereinafter in this chapter referred to as the 'Secretary')" after "Secretary of Defense".

Subsecs. (c), (e). Pub. L. 101-237, §423(b)(1)(A), (4)(A), substituted "Secretary" for "Administrator" after "jointly by the" and inserted "of Defense" after "Secretary" at end.

Subsec. (f). Pub. L. 101-237, §410, added subsec. (f).

1986—Subsec. (a). Pub. L. 99-576 inserted "and before July 1, 1985," and "before July 1, 1985" in first sentence.

#### ENROLLMENT IN PROGRAM BEFORE APRIL 1, 1987

For provisions for continued eligibility for enrollment in the program established by this chapter until Apr. 1, 1987, of individuals on active duty in the Armed Forces who were eligible therefor on June 30, 1985, and requiring notice of such continued eligibility to affected individuals, see section 309(c), (d) of Pub. L. 99-576, set out as a note under section 3201 of this title.

#### SUSPENSION OF RIGHT TO ENROLL IN POST-VIETNAM ERA PROGRAM

Pub. L. 98-525, title VII, §704, Oct. 19, 1984, 98 Stat. 2564, which provided that no individual on active duty in the Armed Forces could initially enroll in the educational assistance program provided for in this chapter during the period beginning on July 1, 1985, and end-

ing on June 30, 1988, was repealed by Pub. L. 99-576, title III, § 309(b), Oct. 28, 1986, 100 Stat. 3270.

NEW ENROLLMENTS IN EDUCATIONAL ASSISTANCE PROGRAM AFTER DECEMBER 31, 1981, PRESIDENTIAL RECOMMENDATION TO CONGRESS

Section 408 of Pub. L. 94-502 provided that:

“(a)(1) No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code (as added by section 404 of this Act) after December 31, 1981, unless—

“(A) before June 1, 1981, the President submits to both Houses of Congress a written recommendation that such program continue to be open for new enrollments; and

“(B) before the close of the 60-day period after the day on which the President submits to Congress the recommendation described in subparagraph (A), neither the House of Representatives nor the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution which in substance disapproves such recommendation.

“(2) For purposes of computing the 60-day period referred to in paragraph (1)(B), there shall be excluded—

“(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

“(B) any Saturday and Sunday, not excluded under the preceding subparagraph, when either House is not in session.

The recommendation referred to in paragraph (1)(A) shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

“(b) If new enrollments after December 31, 1981, in the educational assistance program provided for in such chapter 32 are authorized after the application of the provisions of subsection (a), then effective January 1, 1982, section 1622(b) [now 3222(b)] of title 38, United States Code, is amended by striking out ‘Veterans’ Administration’ and inserting in lieu thereof ‘Department of Defense’.”

**§ 3222. Contributions; matching fund**

(a) Except as provided in subsections (c) and (d) of this section, each person electing to participate in the program shall agree to have a monthly deduction made from such person's military pay. Such monthly deduction shall be in any amount not less than \$25 nor more than \$100 except that the amount must be divisible by 5. Any such amount contributed by the participant or contributed by the Secretary of Defense pursuant to subsection (c) of this section shall be deposited in a deposit fund account entitled the “Post-Vietnam Era Veterans Education Account” (hereinafter in this chapter referred to as the “fund”) to be established in the Treasury of the United States. Contributions made by the participant shall be limited to a maximum of \$2,700.

(b) Except as otherwise provided in this chapter, each monthly contribution made by a participant under subsection (a) shall entitle the participant to matching funds from the Department of Defense at the rate of \$2 for each \$1 contributed by the participant.

(c) The Secretary of Defense is authorized to contribute to the fund of any participant such contributions as the Secretary of Defense deems necessary or appropriate to encourage persons to enter or remain in the Armed Forces, includ-

ing contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section. The Secretary of Defense is authorized to issue such rules and regulations as the Secretary of Defense deems necessary or appropriate to implement the provisions of this subsection.

(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the fund. A lump-sum contribution to the fund by a participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 3231(a) of this title, to have been made by monthly deductions from such participant's military pay in the amount of \$100 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary of Defense and the Secretary.

(e) Any amount transferred to the Secretary from the Secretary of a military department under an interagency agreement for the administration by the Department of Veterans Affairs of an educational assistance program established by the Secretary of Defense under chapter 107 of title 10 may be deposited into and disbursed from the fund for the purposes of such program.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2395, § 1622; amended Pub. L. 94-502, title IV, § 408(b), Oct. 15, 1976, 90 Stat. 2398; Pub. L. 96-466, title IV, § 406, Oct. 17, 1980, 94 Stat. 2202; Pub. L. 97-306, title II, §§ 209, 210, Oct. 14, 1982, 96 Stat. 1436; Pub. L. 98-160, title VII, § 702(6), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 101-237, title IV, § 423(b)(1), (4)(A), (B), (D), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3222 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 1622 of this title as this section.

Subsec. (d). Pub. L. 102-83, § 5(c)(1), substituted “3231(a)” for “1631(a)”.

1989—Subsec. (a). Pub. L. 101-237, § 423(b)(4)(A), inserted “of Defense” after “Secretary”.

Subsec. (c). Pub. L. 101-237, § 423(b)(4)(D), inserted “of Defense” after “Secretary” wherever appearing.

Subsec. (d). Pub. L. 101-237, § 423(b)(1)(A), (4)(A), substituted “Secretary” for “Administrator” at end and inserted “of Defense” after “jointly by the Secretary”.

Subsec. (e). Pub. L. 101-237, § 423(b)(1), (4)(B), substituted “Secretary” and “Department of Veterans Affairs” for “Administrator” and “Veterans’ Administration”, respectively, and inserted “of Defense” after “established by the Secretary”.

1983—Subsec. (d). Pub. L. 98-160 inserted “of this title” after “section 1631(a)”.

1982—Subsec. (d). Pub. L. 97-306, § 210, substituted “\$100” for “\$75”.

Subsec. (e). Pub. L. 97-306, § 209, added subsec. (e).  
1980—Subsec. (a). Pub. L. 96-466, § 406(a), substituted “Except as provided in subsections (c) and (d) of this section, each” for “Each”, “\$25” for “\$50”, and “\$100” for “\$75”.

Subsec. (c). Pub. L. 96-466, § 406(b), inserted “, including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section” after “Armed Forces”.

Subsec. (d). Pub. L. 96-466, § 406(c), added subsec. (d).  
1976—Subsec. (b). Pub. L. 94-502 substituted “Department of Defense” for “Veterans’ Administration”.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-466 effective Oct. 1, 1980, see section 802(d)(2) of Pub. L. 96-466, set out as a note under section 3224 of this title.

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Jan. 1, 1982, because new enrollments after Dec. 31, 1981, in the educational assistance program provided by this chapter, were authorized after application of provisions of section 408(a) of Pub. L. 94-502, see section 408(b) of Pub. L. 94-502, set out as a note under section 3221 of this title.

## REFUNDS FOR CERTAIN SERVICE ACADEMY GRADUATES

Pub. L. 101-366, title II, §207, Aug. 15, 1990, 104 Stat. 442, as amended by Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, directed Secretary of Veterans Affairs to refund, on receipt before Jan. 1, 1992, of an application from an individual, not later than 60 days after receiving such application, the amount, if any, of the individual's unused contributions to the VEAP Account; if the individual has received educational assistance under this chapter, to pay to the individual (out of funds appropriated to the readjustment benefits account) a sum equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of this title for the pursuit of such program exceeds the amount of the educational assistance that the individual did receive under this chapter for the pursuit of such program; or if the individual has not received educational assistance under this chapter, to pay to the individual (out of funds appropriated to the Department of Veterans Affairs Readjustment Benefits account) a sum equal to the amount of educational assistance that the individual would have received under chapter 34 of this title for the pursuit of a program of education if the individual had been entitled to assistance under such program during the period ending on Dec. 31, 1989; and to refund to the Secretary of Defense the unused contributions by such Secretary to the VEAP Account on behalf of such individual.

## EDUCATIONAL ASSISTANCE PILOT PROGRAM; PAYMENT OF MONTHLY CONTRIBUTION BY SECRETARY; MANNER, SCOPE, ETC., OF PAYMENTS

Manner, scope, etc., of payments by Secretary in lieu of payments of monthly contributions by persons participating in educational assistance program, see section 903 of Pub. L. 96-342, set out as a note under section 2141 of Title 10, Armed Forces.

## MATCHING FUNDS FROM DEPARTMENT OF DEFENSE AFTER JANUARY 1, 1982, IF NEW ENROLLMENTS ARE AUTHORIZED AFTER DECEMBER 31, 1981

For provisions of section 408(b) of Pub. L. 94-502 directing that "Department of Defense" be substituted for "Veterans' Administration" in subsec. (b) of this section, effective Jan. 1, 1982, if new enrollments after Dec. 31, 1981, in the educational assistance program provided by this chapter are authorized after application of section 408(a) of Pub. L. 94-502, see section 408 of Pub. L. 94-502, set out as a note under section 3221 of this title.

**§ 3223. Refunds of contributions upon disenrollment**

(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 3224 of this title.

(b) If a participant disenrolls from the program prior to discharge or release from active duty, such participant's contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of

receipt of notice by the Secretary of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the Secretary and the Secretary of Defense.

(c) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded within 60 days of receipt of an application for a refund from the participant.

(d) In the event the participant (1) dies while on active duty, (2) dies after discharge or release from active duty, or (3) disenrolls or is disenrolled from the program without having utilized any entitlement, the participant may have accrued under the program, or, in the event the participant utilizes part of such participant's entitlement and disenrolls or is disenrolled from the program, the amount contributed by the Secretary of Defense under the authority of section 3222(c) of this title remaining in the fund shall be refunded to such Secretary.

(Added Pub. L. 94-502, title IV, §404, Oct. 15, 1976, 90 Stat. 2395, §1623; amended Pub. L. 98-160, title VII, §702(7), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 101-237, title IV, §423(b)(1)(A), (4)(A), (7), Dec. 18, 1989, 103 Stat. 2092, 2093; renumbered §3223 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 1623 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted "3224" for "1624".

Subsec. (d). Pub. L. 102-83, §5(c)(1), substituted "3222(c)" for "1622(c)".

1989—Subsec. (b). Pub. L. 101-237, §423(b)(1)(A), (4)(A), substituted "Secretary" for "Administrator" wherever appearing and inserted "of Defense" after "Secretary" at end.

Subsec. (d). Pub. L. 101-237, §423(b)(7), inserted "of Defense" after first reference to "Secretary" and substituted "such" for "the" before second reference to "Secretary".

1983—Subsec. (a). Pub. L. 98-160 inserted "of this title" after "section 1624".

Subsec. (d). Pub. L. 98-160 inserted "of this title" after "section 1622(c)".

**§ 3224. Death of participant**

In the event of a participant's death, the amount of such participant's unused contributions to the fund shall be paid to the living person or persons first listed below:

(1) The beneficiary or beneficiaries designated by such participant under such participant's Servicemembers' Group Life Insurance policy.

(2) The surviving spouse of the participant.

(3) The surviving child or children of the participant, in equal shares.

(4) The surviving parent or parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to such participant's estate.

(Added Pub. L. 94-502, title IV, §404, Oct. 15, 1976, 90 Stat. 2395, §1624; amended Pub. L. 96-466, title IV, §402, Oct. 17, 1980, 94 Stat. 2201; renumbered §3224, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat.

406; Pub. L. 104-275, title IV, §405(c)(2), Oct. 9, 1996, 110 Stat. 3340.)

#### AMENDMENTS

1996—Par. (1). Pub. L. 104-275 substituted "Service-members' Group" for "Servicemen's Group".

1991—Pub. L. 102-83 renumbered section 1624 of this title as this section.

1980—Pub. L. 96-466 expanded provisions to require payment of a participant's unused contributions to the fund to the surviving spouse, the surviving child or children, or to the surviving parent or parents before payment of such amount to the participant's estate.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 802(d)(2) of Pub. L. 96-466 provided that: "The amendments made by sections 402 through 406 [amending this section and sections 1622, 1631, and 1641 [now 3222, 3231, and 3241] of this title] shall become effective on October 1, 1980."

### § 3225. Discharge or release under conditions which would bar the use of benefits

If a participant in the program is discharged or released from active duty under dishonorable conditions, such participant is automatically disenrolled and any contributions made by such participant shall be refunded to such participant on the date of such participant's discharge or release from active duty or within 60 days from receipt of notice by the Secretary of such discharge or release, whichever is later.

(Added Pub. L. 94-502, title IV, §404, Oct. 15, 1976, 90 Stat. 2396, §1625; amended Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3225, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

#### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1625 of this title as this section.

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

#### SUBCHAPTER III—ENTITLEMENT; DURATION

### § 3231. Entitlement; loan eligibility

(a)(1) Subject to the provisions of section 3695 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or vocational assistance administered by the Department of Veterans Affairs, a participant shall be entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of part-time benefits).

(2) Except as provided in paragraph (5)(E) of this subsection and in subsection (e) of this section and section 3233 of this title and subject to section 3241 of this title, the amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veteran, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary of Defense, and (D) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veteran.

(3) Payment of benefits under this chapter may be made only for periods of time during

which an eligible veteran is actually enrolled in and pursuing an approved program of education and, except as provided in paragraph (4), only after an eligible veteran has been discharged or released from active duty.

(4) Payment of benefits under this chapter may be made after a participant has completed his or her first obligated period of active duty (which began after December 31, 1976), or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(5)(A) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph—

(i) shall not be charged against the entitlement of any eligible veteran under this chapter; and

(ii) shall not be counted toward the aggregate period for which section 3695 of this title limits an individual's receipt of assistance.

(B) The payment of an educational assistance allowance referred to in subparagraph (A) of this paragraph is any payment of a monthly benefit under this chapter to an eligible veteran for pursuit of a course or courses under this chapter if the Secretary finds that the eligible veteran—

(i) 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

(ii) 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

(iii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i) or (ii) of this subparagraph, his or her course pursuit.

(C) 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 subparagraph (B)(iii) of this paragraph.

(D) The amount in the fund for each eligible veteran who received a payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall be restored to the amount that would have been in the fund for the veteran if the payment had not been made. For purposes of carrying out the previous sentence, the Secretary of Defense shall deposit into the fund, on behalf of each such veteran, an amount equal to the entire amount of the payment made to the veteran.

(E) In the case of a veteran who discontinues pursuit of a course or courses as described in subparagraph (B) of this paragraph, the formula for ascertaining the amount of the monthly payment to which the veteran is entitled in paragraph (2) of this subsection shall be implemented as if—