Public Law 96–357
96th Congress

An Act

To authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2107(a) of title 10, United States Code, relating to financial assistance scholarships for specially selected members of the Reserve Officers' Training Corps, is amended by striking out the period at the end of the first sentence and all of the second sentence and inserting in lieu thereof a comma and the following: "except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date."

(b) Section 2107 of such title is further amended—
(1) by inserting "and" at the end of clause (4) of subsection (b);
(2) by striking out clauses (5) and (6) of subsection (b) and inserting in lieu thereof the following:
"(5) agree in writing that, at the discretion of the Secretary of the military department concerned, he will either—
"(A)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that, if he is commissioned as a regular officer and his regular commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, in the reserve component of that armed force and not resign before that anniversary; and
"(ii) serve on active duty for four or more years; or
"(B)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and
"(ii) serve in a reserve component of that armed force until the eighth anniversary of the receipt of such appointment, unless otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as shall be prescribed by the Secretary of the military department concerned.

The performance of service under clause (5)(B) may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed."; and
(3) by striking out "6,500" the first place it appears in subsec-
shortion (h) and inserting in lieu thereof "12,000".

(c)(1) Chapter 103 of such title, relating to Senior Reserve Officers'
Training Corps, is amended by inserting after section 2107 the
following new section:

"§ 2107a. Financial assistance program for specially selected
members: military junior colleges

"(a)(1) The Secretary of the Army may appoint as a cadet in the
Army Reserve or Army National Guard of the United States any
eligible member of the program who is a student at a military junior
college and who will be under 25 years of age on June 30 of the
calendar year in which he is eligible under this section for appoint-
ment as a second lieutenant in the Army, except that the age of any
such member who has served on active duty in the armed forces may
exceed such age limitation on such date by a period equal to the
period such member served on active duty, but only if such member
will be under 29 years of age on such date.

"(2) To be considered a military junior college for the purposes of
this section, a school must be a civilian postsecondary educational
institution essentially military in nature that does not confer baccalaureate
degrees and that meets such other requirements as the
Secretary of the Army may prescribe.

"(b) To be eligible for appointment as a cadet under this section, a
member of the program must—

"(1) be a citizen of the United States;
"(2) be specially selected for the financial assistance program
under this section under procedures prescribed by the Secretary
of the Army;
"(3) enlist in a reserve component of the Army for the period
prescribed by the Secretary of the Army;
"(4) contract, with the consent of his parent or guardian if he is
a minor, with the Secretary of the Army to serve for the period
required by the program;
"(5) agree in writing that he will accept an appointment, if
offered, as a commissioned officer in the Army Reserve or the
Army National Guard of the United States; and
"(6) agree in writing that he will serve in such reserve
component for not less than eight years.

"(c) The Secretary of the Army shall provide for the payment of all
expenses of the Department of the Army in administering the
financial assistance program under this section, including the cost of
tuition, fees, books, and laboratory expenses which are incurred by
members of the program appointed as cadets under this section while
such members are students at a military junior college.

"(d) Upon satisfactorily completing the academic and military
requirements of the program, a cadet may be appointed as a reserve
officer in the Army in the grade of second lieutenant, even though he
is under 21 years of age.

"(e) The date of rank of officers appointed under this section in May
or June of any year is the date of graduation of cadets from the
United States Military Academy in that year. The Secretary of the
Army shall establish the date of rank of all other officers appointed under this section.

“(f) A cadet who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the Army to serve in his enlisted grade for such period of time as the Secretary prescribes but not for more than four years.

“(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service.

“(h)(1) The Secretary of the Army shall appoint not less than 10 cadets under this section each year at each military junior college at which there are not less than 10 members of the program eligible under subsection (b) for such an appointment. At any military college at which in any year there are fewer than 10 such members, the Secretary shall appoint each such member as a cadet under this section.

“(2) If the level of participation in the program at any military junior college meets criteria for such participation established by the Secretary of the Army by regulation, the Secretary shall appoint additional cadets under this section from among members of the program at such military junior college who are eligible under subsection (b) for such an appointment.

“(i) Cadets appointed under this section are in addition to the number appointed under section 2107 of this title.”.

“(2) The table of sections at the beginning of chapter 103 of such title is amended by inserting after the item relating to section 2107 the following new item:

“2107a. Financial assistance program for specially selected members: military junior colleges.”.

“(d) Section 2108(d) of such title, relating to advanced training after receiving a baccalaureate degree or completing preprofessional studies, is amended by striking out the second sentence and inserting in lieu thereof the following: “If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member’s obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member’s obligated period of service in a reserve component until the member has completed such course of study.”.

“(e) The amendments made by this section shall take effect on October 1, 1980.

Sec. 2. (a) Chapter 101 of title 10, United States Code, relating to training, is amended by adding at the end of such chapter the following new section:

“§ 2005. Advanced education assistance: active duty agreement; reimbursement requirements

“(a) The Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree—
“(1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement;
“(2) that if such person fails to complete the educational requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement;
“(3) that if such person, voluntarily or because of misconduct, fails to complete the period of active duty specified in the agreement, such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve; and
“(4) to such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

“(b) The Secretary concerned shall determine the period of active duty to be served by any person for advanced education assistance to be provided such person by an armed force, except that if the period of active duty required to be served is specified under another provision of law with respect to the advanced education assistance to be provided, the period specified in the agreement referred to in subsection (a) shall be the same as the period specified in such other provision of law.

“(c) Subject to the provisions of subsection (d) of this section, the obligation to reimburse the United States under an agreement described in subsection (a) of this section is, for all purposes, a debt owing the United States.

“(d) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of a period which such person had agreed to serve on active duty. This subsection applies to a discharge in bankruptcy in any proceeding which begins after September 30, 1978.

“(e) In this section—

‘(1) ‘Advanced education’ means education or training above the secondary school level but does not include technical training provided to a member of the armed forces to qualify such member to perform a specified military function, to workshops, or to short-term training programs.

‘(2) ‘Assistance’ means the direct provision of any course of advanced education by the Secretary concerned, reimbursement by the Secretary concerned for any course of advanced education provided by another department or agency of the Federal Government, or the payment, in whole or in part, by the Secretary concerned for any course of advanced education provided by any public or private educational institution or other entity, but such term does not include the payment for any course of advanced education which is paid for under chapter 106 or 107 of this title.

‘(3) ‘Cost of advanced education’ means those costs which are, under regulations prescribed by the Secretary concerned, directly attributable to the education of the person to whom a course of advanced education is provided, including the cost of tuition and other fees (or, if none is charged, an amount determined by the Secretary concerned to be a reasonable charge for the education provided), the cost of books, supplies, transporta-
(b) The table of sections at the beginning of chapter 101 of such title is amended by adding at the end thereof the following new item:

"2005. Advanced education assistance: active duty agreement; reimbursement requirements."

Sec. 3. Effective only for the period beginning October 1, 1980, and ending September 30, 1981, section 7572(b) of title 10, United States Code, relating to accommodations in place of quarters for members on sea duty, is amended to read as follows:

"(b) Under such regulations as the Secretary prescribes, any member of the uniformed services on sea duty who is deprived of quarters on board ship because of repairs or because of other conditions that make the member's quarters uninhabitable, may be reimbursed for expenses incurred in obtaining quarters, in an amount not more than the basic allowance for quarters of a member of the same grade without dependents, if it is impracticable to furnish accommodations under subsection (a). A member entitled to receipt of basic allowance for quarters may not be reimbursed for expenses under this subsection when deprived of quarters aboard ship at a location at which the member can reside with such member's dependents. The total amount of such reimbursements for fiscal year 1981 may not exceed $9,000,000.".

Sec. 4. Section 3(a) of the Act of August 10, 1956 (33 U.S.C. 857a(a)), relating to the applicability of certain laws to the National Oceanic and Atmospheric Administration, is amended by adding at the end thereof the following new paragraph:

"(14) Section 7572(b), Quarters: accommodations in place of for members on sea duty."

Sec. 5. (a) Sections 3686(2) and 8686(2) of title 10, United States Code, relating to service credit for service as members of the Army and Air Force National Guard, are each amended by striking out "sections 316 and 503-505 of title 32" and inserting in lieu thereof "sections 316 and 502 through 505 of title 32".

(b) The amendments made by subsection (a) shall apply with respect to full-time training or other full-time duty performed under section 502 of title 32, United States Code, on and after the date of the enactment of this Act.

Sec. 6. The second sentence of section 672(a) of title 10, United States Code, relating to authority to order members of the Standby Reserve to active duty, is amended to read as follows: "However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available."
SEC. 7. (a) Section 4818 of the Revised Statutes of the United States (24 U.S.C. 44), relating to funds for the support of the Soldiers' and Airmen's Home, is amended by inserting "or under authority of section 815 of title 10, United States Code" after "courts-martial".

(b) The amendment made by subsection (a) shall become effective on October 1, 1981.

Approved September 24, 1980.